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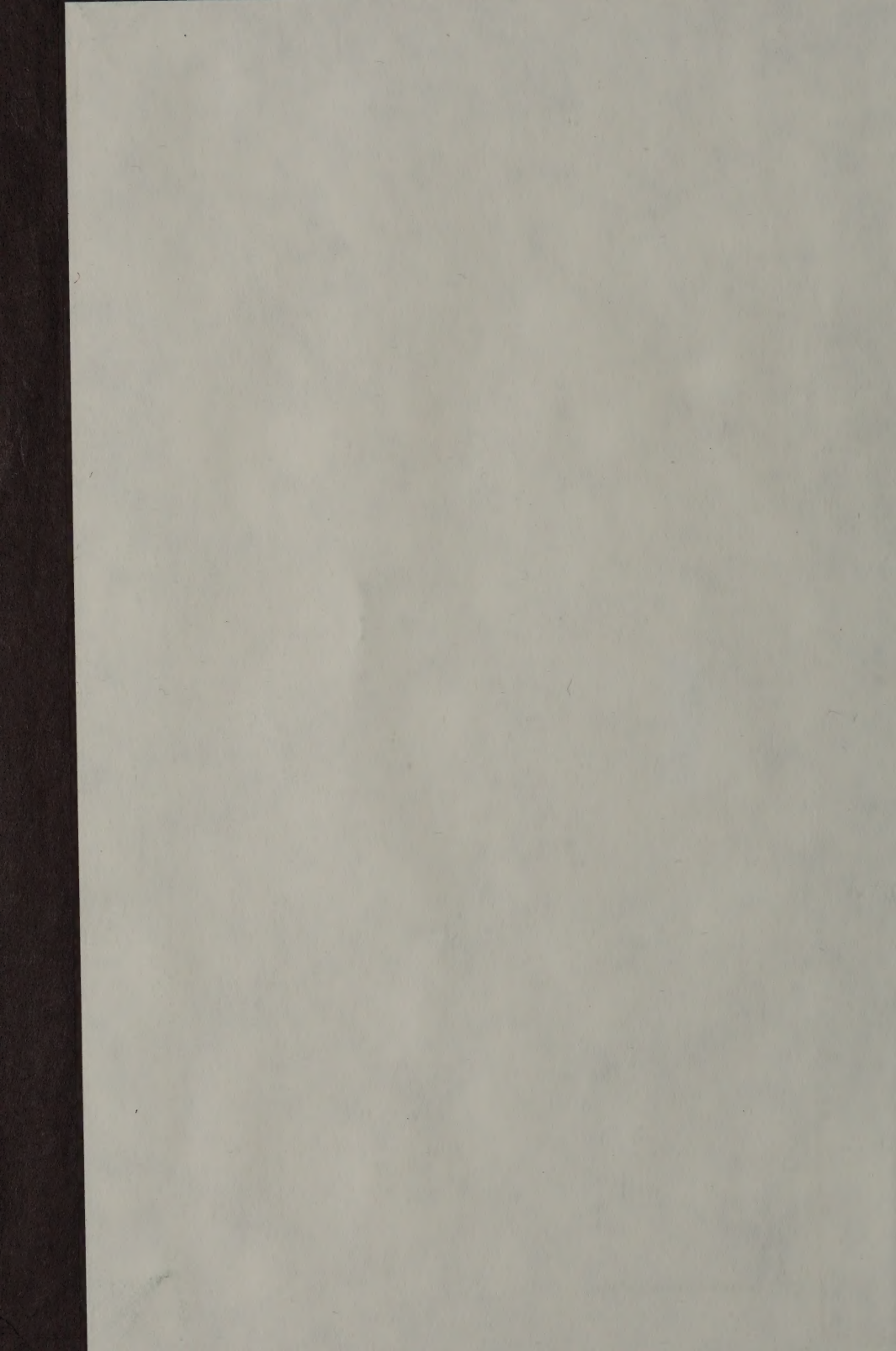
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MAY 1990

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House and Senate journals of the  
Fifty-first Legislature of the  
State of Montana--May 1990--  
Special Session

**HOUSE AND SENATE JOURNALS  
OF THE  
FIFTY-FIRST LEGISLATURE  
OF THE  
STATE OF MONTANA  
MAY 1990  
SPECIAL SESSION**

Held in Helena, the Seat of Government  
Commencing in Special Session May 21, 1990,  
and Ending May 25, 1990

**JACK E. GALT**  
President of the Senate

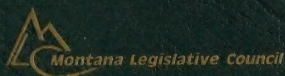
**JOHN VINCENT**  
Speaker of the House

**JOHN W. LARSON**  
Secretary of the Senate

**JOYCE ANDRUS**  
Chief Clerk of the House

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HOUSE AND SENATE JOURNALS

OF THE

FIFTY-FIRST LEGISLATURE

OF THE

STATE OF MONTANA

MAY 1990

SPECIAL SESSION

Jack E. Galt  
President of the Senate

John Vincent  
Speaker of the House

John W. Larson  
Secretary of the Senate

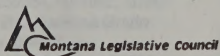
Joyce Andrus  
Chief Clerk of the House

Rosana Skelton  
Senate Journal Clerk

Vicki Lofthouse  
House Journal Clerk

Barb Simic  
Senate Asst. Journal Clerk

Published By







# OFFICERS AND MEMBERS OF THE MONTANA SENATE 1989

50 Members

27 Republicans

23 Democrats

## OFFICERS

President	Jack E. Galt
President Pro Tempore	Matt Himsl
Majority Leader	Delwyn Gage
Majority Whip	Bill Farrell
Minority Leader	Bill Norman
Minority Whip	Judy Jacobson
Secretary of the Senate	John Larson

## MEMBERS

Name	Residence or Mailing Address	Dist. No.	County of Residence	Party
Abrams, Hubert J.	S Route, Wibaux, 59353	12	Wibaux	Democratic
Aklestad, Gary C.	P.O. Box 32, Galata, 59444	6	Toole	Republican
Anderson, Jr., John H.	P.O. Box 86, Alder, 59710	37	Madison	Republican
Beck, Thomas A. (Tom)	651 Greenhouse Rd, Deer Lodge, 59722	24	Powell	Republican
Bengtson, Esther G.	8124 Clark Rd, Shepherd, 59079	49	Yellowstone	Democratic
Bishop, Al	2713 Downer Ln, Billings, 59102	46	Yellowstone	Republican
Blaylock, Chet	502 Third Ave, Laurel, 59044	43	Yellowstone	Democratic
Boylan, Paul F.	3747 S 19th Rd, Bozeman, 59715	39	Gallatin	Democratic
Brown, Robert (Bob)	333 Cougar Trl, Whitefish, 59937	2	Flathead	Republican
Crippen, Bruce D.	P.O. Box 80747, Billings, 591080747	45	Yellowstone	Republican
Devlin, Gerry	P.O. Box 186, Terry, 59349	13	Prairie	Republican
Eck, Dorothy	10 W Garfield, Bozeman, 59715	40	Gallatin	Democratic
Farrell, William E. "Bill"	12255 Flora Dr, Missoula, 59801	31	Missoula	Republican
Gage, Delwyn	P.O. Box 787, Cut Bank, 59427	5	Glacier	Republican
Galt, Jack E.	Martinsdale, 59053	16	Meagher	Republican
Hager, Thomas O. (Tom)	150 Norris Ct, Billings, 59105	48	Yellowstone	Republican
Halligan, Mike	P.O. Box 9121, Missoula, 59807	29	Missoula	Democratic
Hammond, H. W. (Swede)	P.O. Box 1366, Malta, 59538	9	Phillips	Republican
Harding, Ethel M.	P.O. Box 251, Polson, 59860	25	Lake	Republican
Harp, John G.	53 Willow Dr, Kalispell, 59901	4	Flathead	Republican
Himsl, Mathias A. (Matt)	305 Fourth Ave E, Kalispell, 59901	3	Flathead	Republican
Hofman, Sam	6210 Camp Creek Rd, Manhattan, 59741	38	Gallatin	Republican
Jacobson, Judy H.	330 Blacktail Canyon Rd, Butte, 59701	36	Silver Bow	Democratic
Jenkins, Loren	RR 1 Box 689, Big Sandy, 59520	7	Chouteau	Republican
Jergeson, Greg	RR 71 Box 8, Chinook, 59523	8	Blaine	Democratic
Keating, Thomas F.	P.O. Box 20522, Billings, 59104	44	Yellowstone	Republican
Lynch, John "J. D."	527 W Mercury, Butte, 59701	34	Silver Bow	Democratic
Manning, Richard Edward	810 Seventh Ave N, Great Falls, 59401	18	Cascade	Democratic
Mazurek, Joseph P.	516 Hayes, Helena, 59601	23	Lewis & Clark	Democratic
McLane, Harry H. "Doc"	P.O. Box 312, Laurel, 59044	42	Yellowstone	Republican
Meyer, Darryl	5306 Fourth Ave S, Great Falls, 59405	17	Cascade	Republican
Nathe, Dennis G.	P.O. Box 4, Redstone, 59257	10	Sheridan	Republican
Noble, Jerry	712 Central W, Great Falls, 59404	21	Cascade	Republican
Norman, Bill	440 Connell Ave, Missoula, 59801	28	Missoula	Democratic
Pinsonault, Richard J. "Dick"	P.O. Box 250, St. Ignatius, 59865	27	Lake	Democratic
Pipinich, Bob	4430 Hwy 200 Marshall Grade, Missoula, 59802	33	Missoula	Democratic
Rasmussen, Tom	1353 Rimini Rd, Helena, 59601	22	Lewis & Clark	Republican
Regan, Pat	204 Mountain Vw, Billings, 59101	47	Yellowstone	Democratic
Severson, Elmer D.	480 Middle Burnt Fork Rd, Stevensville, 59870	32	Ravalli	Republican
Stimatz, Lawrence G.	1615 C St, Butte, 59702	35	Silver Bow	Democratic





# OFFICERS AND MEMBERS OF THE MONTANA HOUSE OF REPRESENTATIVES 1990

100 Members

52 Democrats

48 Republicans

## OFFICERS

Speaker . . . . .	John Vincent
Speaker Pro Tempore . . . . .	Kelly Addy
Majority Leader . . . . .	Hal Harper
Majority Whip . . . . .	Joe Quilici
Minority Leader . . . . .	Jack Ramirez
Minority Whip . . . . .	John Mercer
Chief Clerk of the House . . . . .	Joyce Andrus

## MEMBERS

Name	Residence or Mailing Address	Dist. No.	County of Residence	Party
Aafedt, Ole	500 34th St S, Great Falls, 59405	34	Cascade	Republican
Addy, Kelly	Matovich, Addy & Keller, P.C. Billings, 59101	94	Yellowstone	Democratic
Bachini, Bob	409 19th St, Havre, 59501	14	Hill	Democratic
Bardanouve, Francis	P.O. Box 367, Harlem, 59526	16	Blaine	Democratic
Blotkamp, Robert "Robb"	2 Deer Park, Anaconda, 59711	66	Deer Lodge	Democratic
Boharski, William E.	P.O. Box 2965, Kalispell, 59901	4	Flathead	Republican
Bradley, Dorothy	919 W Lamme, Bozeman, 59715	79	Gallatin	Democratic
Brooke, Vivian M.	1610 Madeline Ave, Missoula, 59801	56	Missoula	Democratic
Brown, Dave	3040 Ottawa, Butte, 59701	72	Silver Bow	Democratic
Brown, Jan	906 Madison Ave, Helena, 59601	46	Lewis & Clark	Democratic
Campbell, Bud	471 Lake Hill Rd, Deer Lodge, 59722	48	Powell	Republican
Clark, Robert C.	P.O. Box 262, Ryegate, 59074	31	Golden Valley	Republican
Cobb, John	P.O. Box 388, Augusta, 59410	42	Lewis & Clark	Republican
Cocchiarella, Vicki	535 Livingston Ave, Missoula, 59801	59	Missoula	Democratic
Cody, Dorothy A.	P.O. Box 973, Wolf Point, 59201	20	Roosevelt	Democratic
Cohen, Ben	P.O. Box 1657, Whitefish, 59937	3	Flathead	Democratic
Compton, Duane W.	134 S Eighth E, Malta, 59538	17	Phillips	Republican
Connelly, Mary Ellen	3315 Whitefish Stage, Kalispell, 59901	8	Flathead	Democratic
Cooper, Barton L.	P.O. Box C, Boulder, 59632	75	Jefferson	Republican
Daily, Fred "Fritz"	1057 W Steel, Butte, 59701	69	Silver Bow	Democratic
Darko, Paula A.	P.O. Box 490, Libby, 59923	2	Lincoln	Democratic
Davis, Ervin	P.O. Box 63, Charlo, 59824	53	Lake	Democratic
DeBruycker, Roger	SR Box 8, Floweree, 59440	13	Chouteau	Republican
DeMars, Gene	RR 1 Box 22, Coffee Creek, 59424	29	Fergus	Democratic
Driscoll, Jerry L.	4344 Stone St, Billings, 59101	92	Yellowstone	Democratic
Elliott, Jim	100 Trout Creek Rd, Trout Creek, 59874	51	Sanders	Democratic
Ellison, Orval S.	HC 59 Box 106, McLeod, 59052	81	Park	Republican
Eudaily, Ralph S.	234 Kensington Ave, Missoula, 59801	60	Missoula	Republican
Gervais, Floyd (Bob)	P.O. Box 1810, Browning, 59417	9	Glacier	Democratic
Gilbert, Bob	P.O. Drawer 1228, Sidney, 59270	22	Richland	Republican
Glaser, William E. (Bill)	1402 Indian Creek Rd, Huntley, 59037	98	Yellowstone	Republican
Good, M. Susan	2717 Third Ave N, Great Falls, 59401	36	Cascade	Republican
Gould, R. Budd	2205 S Fifth W, Missoula, 59801	61	Missoula	Republican
Grady, Edward J. (Ed)	Star Route, Canyon Creek, 59633	47	Lewis & Clark	Republican
Grinde, Larry Hal	RR 3, Lewistown, 59457	30	Fergus	Republican
Guthrie, Bert	P.O. Box 541, Choteau, 59422	11	Teton	Republican
Hansen, Stella Jean	841 Woodford St, Missoula, 59801	57	Missoula	Democratic
Hanson, Marian W.	P.O. Box 237, Ashland, 59003	100	Powder River	Republican
Harper, Hal	9 Comstock Rd, Helena, 59601	44	Lewis & Clark	Democratic
Harrington, Dan W.	1201 N Excelsior, Butte, 59701	68	Silver Bow	Democratic

Name	Residence or Mailing Address	Dist. No.	County of Residence	Party
Hayne, Harriet	P.O. Box 285, Dupuyer, 59432	10	Pondera	Republican
Hoffman, Robert E.	P.O. Box 306, Sheridan, 59749	74	Madison	Republican
Iverson, Dennis	Capitol Station, Helena, 59620	12	Liberty	Republican
Johnson, John	124 Gresham, Glendive, 59330	23	Dawson	Democratic
Kadas, Mike	922 Taylor, Missoula, 59802	55	Missoula	Democratic
Kasten, Betty Lou	SR 277 Box A-14, Brockway, 59214	28	McCone	Republican
Keller, Vernon V.	HC 55 Box 355, Fishtail, 59028	83	Stillwater	Republican
Kilpatrick, Thomas E. (Tom)	814 First Ave Box 546, Laurel, 59044	85	Yellowstone	Democratic
Kimberley, Bervyl C. "Berv"	2511 Wyoming Ave, Billings, 59102	90	Yellowstone	Democratic
Knapp, Roger	P.O. Box 8, Hysham, 59038	27	Treasure	Republican
Koehnke, Francis	P.O. Box 692, Townsend, 59644	32	Broadwater	Democratic
Lee, Thomas N.	P.O. Box 261, Bigfork, 59911	49	Lake	Republican
McCormick, Lloyd J. "Mac"	1417 13th St S, Great Falls, 59405	38	Cascade	Democratic
McDonough, Mary	816 Parkhill Dr, Billings, 59102	89	Yellowstone	Democratic
Menahan, William T. "Red"	1304 W Fifth, Anaconda, 59711	67	Deer Lodge	Democratic
Mercer, John A.	P.O. Box 450, Polson, 59860	50	Lake	Republican
Moore, Janet	P.O. Box 1017, Condon, 59826	65	Missoula	Democratic
Nelson, Linda J.	HC 51 Box 30, Medicine Lake, 59247	19	Sheridan	Democratic
Nelson, Richard M.	94 Northern Lights Blvd, Kalispell, 59901	6	Flathead	Republican
Nelson, Thomas E.	1116 Moon Valley Rd, Billings, 59105	95	Yellowstone	Republican
Nisbet, Jerry	1401 Park Garden Rd, Great Falls, 59401	35	Cascade	Democratic
O'Connell, Helen G.	703 Fourth Ave SW, Great Falls, 59404	40	Cascade	Democratic
O'Keefe, Mark	531 Power St, Helena, 59601	45	Lewis & Clark	Democratic
Owens, Gaylon F. "Lum"	535 W California, Kalispell, 59901	7	Flathead	Republican
Patterson, John W.	P.O. Box 150, Custer, 59024	97	Yellowstone	Republican
Pavlovich, Robert J. "Bob"	1375 Harrison Ave, Butte, 59701	70	Silver Bow	Democratic
Peck, Ray	729 Fourth Ave, Havre, 59501	15	Hill	Democratic
Peterson, Mary Lou	234 Glen Lake Dr, Eureka, 59917	1	Lincoln	Republican
Phillips, John E.	1200 32nd St S #61, Great Falls, 59405	33	Cascade	Republican
Quilici, Joe	3040 Kossuth, Butte, 59701	71	Silver Bow	Democratic
Ramirez, Jack	c/o Sen. Conrad Burns, Billings, 59101	87	Yellowstone	Republican
Raney, Bob	212 S Sixth St, Livingston, 59047	82	Park	Democratic
Ream, Robert R. (Bob)	5950 Wildcat Rd, Missoula, 59802	54	Missoula	Democratic
Rehberg, Dennis R.	4401 Hwy 3, Billings, 59106	88	Yellowstone	Republican
Rice, Jim	1525 Williamsburg Rd, Helena, 59601	43	Lewis & Clark	Republican
Roth, Rande K.	726 Oasis Dr, Billings, 59105	96	Yellowstone	Republican
Russell, Angela	P.O. Box 333, Lodge Grass, 59050	99	Big Horn	Democratic
Schye, Ted	N Star Route, Glasgow, 59230	18	Valley	Democratic
Simon, Bruce T.	217 Clark, Billings, 59101	91	Yellowstone	Republican
Simpkins, Richard D.	1221 Park Garden Rd, Great Falls, 59404	39	Cascade	Republican
Smith, Clyde B.	148 3-Mile Dr, Kalispell, 59901	5	Flathead	Republican
Spaeth, Gary	P.O. Box 193, Joliet, 59041	84	Carbon	Democratic
Spring, Wilbur	2383 Penwell Bridge Rd, Belgrade, 59714	77	Gallatin	Republican
Squires, Carolyn M.	2111 S Tenth St W, Missoula, 59801	58	Missoula	Democratic
Stang, Barry "Spook"	142 Montana Hwy 135 S, St. Regis, 59866	52	Mineral	Democratic
Steppler, Don	P.O. Box 429, Brockton, 59213	21	Richland	Democratic
Stickney, Jessica	2206 Main St, Miles City, 59301	26	Custer	Democratic
Strizich, William S. (Bill)	736 27th Ave NE, Great Falls, 59404	41	Cascade	Democratic
Swift, Bernie A.	236 Rose Ln, Hamilton, 59840	64	Ravalli	Republican
Swysgood, Charles	506 S Atlantic, Dillon, 59725	73	Beaverhead	Republican
Thoft, Bob	1520 S Burnt Fork Rd, Stevensville, 59870	63	Ravalli	Republican
Thomas, Fred	144 Brook Ln, Stevensville, 59870	62	Ravalli	Republican
Tunby, Rolph	Box 56, Plevna, 59344	24	Fallon	Republican
Vincent, John	1020 S Third, Bozeman, 59715	80	Gallatin	Democratic
Vogel, Randy	4686 Harvest Lane, Billings, 59106	86	Yellowstone	Republican
Wallin, Norm	2422 Springcreek Dr, Bozeman, 59715	78	Gallatin	Republican
Westlake, Vernon L.	3186 Love Lane, Bozeman, 59715	76	Gallatin	Democratic
Whalen, Timothy J.	101 Avenue C, Billings, 59101	93	Yellowstone	Democratic
Wyatt, Diana E.	300 31st St S, Great Falls, 59405	37	Cascade	Democratic
Zook, Tom	c/o Broadus Stage, Miles City, 59301	25	Custer	Republican

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HOUSE  
JOURNAL

MAY 1990  
SPECIAL SESSION





## FIRST LEGISLATIVE DAY

Helena, Montana  
May 21, 1990

House Chambers  
State Capitol

Pursuant to law, and the following call of the Governor, Speaker Vincent called the second special session of the House of Representatives of the 51st Legislature to order at 8:00 a.m.

### GOVERNOR'S CALL TO CONVENE THE MONTANA LEGISLATURE INTO SPECIAL SESSION

By the power vested in me in Section 6, Article V and Section II, Article VI of the Montana Constitution and such other applicable laws, I hereby call the Montana Legislature to convene into special session commencing at 8:00 a.m., Monday, May 21, 1990.

I have determined that it is in the public interest that the legislature convene into special session. The Call of the special session is limited to consideration of the following issues:

1. Consideration of legislation that will permit the Departments of Institutions and Administration to utilize inmate labor for the construction of certain long-range building projects provided for in House Bill 777, 1989 Regular Session, and exempting those projects from the limitations contained in section 53-1-301(1)(g), MCA, and the restrictions applying to these projects relating to public bidding, bonding, worker's compensation coverage, or labor or wage requirements, and for such legislation necessary as a result of Southwest Building and Construction Trades Council, et al. v. State of Montana, et al., First Judicial District Court, Lewis and Clark County, Cause Number DV-89-914.

2. Reconsideration of certain provisions of House Bill 28, passed by the 1989 Special Session of the Legislature, which was a broad revision of Montana school funding and taxation. In subsequent application of its provisions, certain provisions of the Act require amendments and clarification by the Montana Legislature. The subjects to be considered at said special session regarding school funding and taxation shall be limited to the following:

(A) Consideration of the elimination of the exemption from local government severance tax of the 30,000 cubic feet of natural gas per day, per well (classified as stripper wells) retroactive to calendar year 1989 production;

(B) Determination and definition of the base year for the distribution of the local government severance tax funds to all taxing jurisdictions within the county affected;

(C) Establishment of local government severance tax rates revenue neutral to net proceeds taxes paid on calendar year 1987 oil and gas production, from oil and gas wells drilled prior to July 1, 1985;

(D) Clarification of the terms "taxing district," "school district" and "district" to be uniform and consistent throughout section 15-36-112, MCA, by using the term "taxing jurisdiction";

(E) Replacement of the "unit value" distribution formula on the final step of the local government severance tax distribution procedure contained in section 15-36-112(4), MCA, with a percentage basis formula, thus eliminating the possibility of a "negative" distribution of local government severance tax;

(F) Clarification to make certain all local school district revenue from natural resource taxation is included in the guaranteed tax base calculation.

3. Consideration of legislation to segregate and separate the liability of the State Compensation Mutual Insurance Fund (the Fund) as of July 1, 1990, including the then existing unfunded liability of the Fund; to provide for the payment of retirement of such liability from revenues derived from the payroll tax and the proceeds of bonds issued in anticipation of the receipt thereof; and to authorize and provide for the extension of the payroll tax at a reduced rate not to exceed .28% per \$100.00, the issuance of bonds by the Board of Investments payable from and secured by the receipts and the collection of such tax.

4. Confirmation by the Montana State Senate of nominees selected for vacancies created in the Supreme Court and district courts. These nominees are:

**Justice Diane Barz**

Justice, Montana Supreme Court

Nominated to replace retiring Justice L. C. Gulbrandson

**District Judge Dorothy McCarter**

District Judge, First Judicial District Court,  
Helena, Montana

Nominated to replace retiring District Judge Henry Loble

**District Judge Maurice R. Colberg**

District Judge, Thirteenth Judicial District Court,  
Billings, Montana

Nominated to replace Former District Judge Diane Barz,  
Justice, Montana Supreme Court

**District Judge Larry Moran**

District Judge, Eighteenth Judicial District Court  
Bozeman, Montana

Nominated to replace retiring District Judge Joseph Gary

Sincerely,

STAN STEPHENS

Governor

The following Invocation was given by Speaker Vincent:

Gracious God, as we assemble here today we ask that you help us during this special session to do good work in the service of the people of Montana . . . that you give us the will to suppress conflict, contentions, and political expediency and the capacity to make just decisions that serve the best interest of Montana and its people.

May 21, 1990

Those of us who are serving in our last legislative session ask for your assurance that there is a life after the legislature and those of us who will be returning ask for your help in the hope that when the 52nd Legislature adjourns it will be unnecessary to ask for your forgiveness. Amen.

Pledge of Allegiance to the Flag.

Roll call. All members present except Representatives Blotkamp, Boharski, Spaeth and Whalen, excused. Quorum present.

## COMMUNICATIONS AND PETITIONS

### CERTIFICATE OF ELECTION

Barton L. Cooper

I, Mike Cooney, Secretary of State of the State of Montana, do hereby certify that on Thursday, August 17, 1989, I received and filed the Official Appointment of Barton L. Cooper of Boulder, Montana, to fill the vacancy in House District 75 created by the resignation of Representative Robert L. Marks on August 1, 1989.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the Great Seal of the State of Montana, at Helena, the Capital, this 21st day of May, 1990.

MIKE COONEY  
Secretary of State

### CERTIFICATE OF ELECTION

Randy Vogel

I, Mike Cooney, Secretary of State of the State of Montana, do hereby certify that on Monday, October 23, 1989, I received and filed the Official Appointment of Randy Vogel of Billings, Montana, to fill the vacancy in House District 86 created by the resignation of Representative Thomas E. Hannah on October 17, 1989.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the Great Seal of the State of Montana, at Helena, the Capital, this 21st day of May, 1990.

MIKE COONEY  
Secretary of State

### CERTIFICATE OF ELECTION

Rolph Tunby

HOUSE JOURNAL  
MAY 1990 SPECIAL SESSION

I, Mike Cooney, Secretary of State of the State of Montana, do hereby certify that on Friday, May 4, 1990, I received and filed the Official Appointment of Rolph Tunby of Plevna, Montana, to fill the vacancy in House District 24 created by the resignation of Representative Leo A. Giacometto on April 20, 1990.

IN WITNESS WHEREOF, I have  
hereunto subscribed my name and af-  
fixed the Great Seal of the State of  
Montana, at Helena, the Capital, this  
21st day of May, 1990.

MIKE COONEY  
Secretary of State

**SPECIAL ORDERS OF THE DAY**

Speaker Vincent had Representatives Cooper, Tunby and Vogel approach the well of the House where he administered the following oath:

"I do solemnly swear that I will support, protect and defend the Constitution of the United States, and the Constitution of the State of Montana, and that I will discharge the duties of my office as a representative with fidelity, so help me God."

Thereupon, the representatives subscribed to the oath and were welcomed as new members of the 51st Legislative Assembly.

Representatives Blotkamp and Boharski present at this time.

May 21, 1990

Ms. Joyce Andrus  
Acting Chief Clerk  
House of Representatives  
State Capitol  
Helena, MT 59620

Dear Joyce:

Pursuant to Rules of the 51st Montana Legislature H10-60 (1), effective immediately, I am pleased to announce your appointment as Chief Clerk to the Montana House of Representatives.

Sincerely,

JOHN VINCENT  
Speaker

**COMMUNICATIONS AND PETITIONS**

May 21, 1990



Ms. Joyce Andrus  
Chief Clerk  
House of Representatives  
State Capitol  
Helena, MT 59620

Dear Joyce:

Pursuant to Rules of the 51st Montana Legislature H10-20 (3), I hereby appoint Representative Richard Nelson to the House Taxation Committee.

Representative Richard Nelson will replace former Representative Leo Giacometto, who resigned from the 51st Legislature.

Sincerely,

JOHN VINCENT  
Speaker

May 21, 1990

Ms. Joyce Andrus  
Chief Clerk  
House of Representative  
State Capitol  
Helena, MT 59620

Dear Joyce:

Pursuant to Rules of the 51st Montana Legislature H10-20 (3), I hereby appoint Representative John Cobb and Representative Orval Ellison to the House Natural Resources Committee.

Representative Cobb will replace former Representative Tom Hannah, who resigned from the 51st Legislature. Representative Ellison will replace former Representative Leo Giacometto, who resigned from the 51st Legislature.

Sincerely,

JOHN VINCENT  
Speaker

May 21, 1990

Ms. Joyce Andrus  
Chief Clerk  
House of Representatives  
State Capitol  
Helena, MT 59620

Dear Joyce:

Pursuant to Rules of the 51st Montana Legislature H10-20 (3), I hereby appoint Representative Jim Rice to the House Legislative Administration Committee.

Representative Jim Rice will replace former Representative Bob Marks, who resigned from the 51st Legislature.

Sincerely,

JOHN VINCENT  
Speaker

May 21, 1990

Ms. Joyce Andrus  
Chief Clerk  
House of Representatives  
State Capitol  
Helena, MT 59620

Dear Joyce:

Pursuant to Rules of the 51st Montana Legislature H10-20 (3), I hereby appoint Representative Duane Compton to the House Appropriations Committee.

Representative Compton will replace former Representative Bob Marks, who resigned from the 51st Legislature.

Sincerely,

JOHN VINCENT  
Speaker

Speaker Vincent read the following ruling received from Attorney General Racicot regarding the power of standing committees to investigate matters during a special legislative session:

A standing committee of the Legislature not formally discharged prior to the final adjournment of the preceding session may meet during a special session for the purpose of gathering information and taking testimony on a matter not within the call of the special session.

#### FIRST READING AND COMMITMENT OF BILLS AND RESOLUTIONS

The following House bills were introduced, read first time, and referred to committees:

**HB 1**, introduced by Thoft, referred to Committee on Labor and Employment Relations

**HB 2**, introduced by Glaser, referred to Committee on Labor and Employment Relations

**HB 3**, introduced by O'Keefe, referred to Committee on Taxation

**HB 4**, introduced by O'Keefe, referred to Committee on Taxation

## MOTIONS

Representative Harper moved the officers, organization, rules and joint rules of the first special session of the 51st Legislature be made the officers, organization, rules and joint rules of the second special session of the 51st Legislature. Motion carried.

Representative Harper moved the House Rules of the first special session of the 51st Legislature be made the House Rules for the second special session of the 51st Legislature. Motion carried.

Committee meetings were announced by committee chairmen.

Representative Harper moved the House recess until 5:30 p.m. Motion carried.

House recessed at 8:20 a.m.

House reconvened at 5:30 p.m. Speaker Vincent in the Chair.

Representatives Campbell, Gould and Mercer excused at this time.

Representatives Spaeth and Whalen present at this time.

## FIRST READING AND COMMITMENT OF BILLS AND RESOLUTIONS

The following House bills were introduced, read first time, and referred to committees:

**HB 5**, introduced by Eudaily, referred to Committee on Taxation

**HB 6**, introduced by Bardanouve, referred to Committee on Appropriations

**HB 7**, introduced by O'Keefe, referred to Committee on Taxation

## ANNOUNCEMENTS

Committee meetings were announced by committee chairmen.

Representative Harper moved the House adjourn until 8:00 a.m., Tuesday, May 22, 1990. Motion carried.

House adjourned at 5:38 p.m.

John Vincent, Speaker

Joyce Andrus, Chief Clerk





## SECOND LEGISLATIVE DAY

Helena, Montana  
May 22, 1990

House Chambers  
State Capitol

House convened at 8:00 a.m. Speaker Vincent in the Chair. Invocation by Representative O'Keefe. Pledge of Allegiance to the Flag.

Roll call. All members present except Strizich and Whalen, excused. Quorum present.

### COMMUNICATIONS AND PETITIONS

May 22, 1990

Ms. Joyce Andrus  
Chief Clerk  
House of Representatives  
State Capitol  
Helena, MT 59620

Dear Joyce:

Pursuant to Rules of the 51st Montana Legislature H10-20 (3), I hereby appoint Representative Dennis Iverson to the House Judiciary Committee.

Representative Iverson will replace former Representative Tom Hannah, who resigned from the 51st Legislature.

Sincerely,

JOHN VINCENT  
Speaker

Representative Harper moved the House recess until 1:30 p.m. Motion carried.

House recessed at 8:08 a.m.

House reconvened at 1:30 p.m. Speaker Vincent in the Chair.

### REPORTS OF STANDING COMMITTEES

APPROPRIATIONS (Bardanouve, Chairman):  
HB 6, introduced bill, be amended as follows:

5/22/90

1. Title, line 7.

Following: "PURPOSES;"

Insert: "CLARIFYING THAT APPROPRIATIONS TO THE OFFICE OF  
PUBLIC INSTRUCTION FOR DISTRIBUTION OF FEDERAL  
DISCRETIONARY GRANTS ARE BIENNIAL APPROPRIATIONS;"

2. Page 1, line 15.

Strike: "\$99,489"

Insert: "\$101,989"

3. Page 1, line 16.

Strike: "67,293"

Insert: "68,543"

4. Page 1, line 18.

Following: line 17

Insert: "NEW SECTION. Section 2. Biennial appropriation. Fiscal year 1990 and 1991 appropriations to the office of public instruction for the distribution of federal discretionary grants contained in House Bill No. 100, Laws of 1989, are biennial appropriations."

Renumber: subsequent section

And, as amended, do pass. Report adopted.

Representative Harper moved the House recess until 2:00 p.m. Motion carried.

House recessed at 1:45 p.m.

House reconvened at 2:00 p.m. Speaker Vincent in the Chair.

Representative Harper moved the House recess until 6:00 p.m. Motion carried.

House recessed at 2:22 p.m.

House reconvened at 7:40 p.m. Speaker Vincent in the Chair.

Representative Brooke and L. Nelson excused at this time.

### REPORTS OF STANDING COMMITTEES

BILLS (Menahan, Chairman):

5/22/90

Correctly printed: HB 6.

LABOR AND EMPLOYMENT RELATIONS (Russell, Chairman):

5/22/90

HB 1, introduced bill, be amended as follows:

1. Title, lines 5 through 7.

Following: "CONSTRUCTION" on line 5

Strike: remainder of line 5 through "PROJECTS" on line 7

Insert: "OF A LOW SECURITY HOUSING UNIT AT MONTANA STATE PRISON AS AUTHORIZED IN SECTION 6, HOUSE BILL NO. 777, LAWS OF 1989"

Following: "MCA," on line 7

Insert: "AND SECTION 22, HOUSE BILL NO. 777, LAWS OF 1989"

2. Page 3, line 25.

Strike: "projects"

Insert: "the project"

3. Page 4, line 3.

Strike: "designated construction projects"

Insert: "prison construction"

4. Page 4, lines 7 through 12.

Following: "1989" on line 7

Strike: remainder of line 7 through "1989" on line 12.

5. Page 4, line 14.

Strike: "projects"

Insert: "project"

6. Page 4.

Following: line 17

Insert: "Section 3. Section 22, House Bill No. 777, Laws of 1989, is amended to read:

~~"Section 22. Authorizing inmate labor for construction of prison projects prison construction. For the purposes of constructing a 96 man housing unit authorized in [section 6]; the ranch housing units and the irrigation system at Montana state prison authorized in [section 7]; and the inspection, study, and renovation of dams at Montana state prison authorized in [section 10(2)]; the~~ The department of institutions may use inmate labor to construct the projects for purposes of constructing the low security housing unit authorized in [section 6] and is exempt, for the purposes of completing these projects such project, from the provisions of 53-1-301(1)(g). The department of administration may exempt these projects the project authorized in [section 6] from any provisions of Montana law relating to public bidding, bonding, workers' compensation coverage, or labor and wage requirements."

Renumber: subsequent sections

And, as amended, do pass. Report adopted.

HB 2, introduced bill, be amended as follows:

1. Title, line 17.

Following: line 16

Insert: "PROVIDING THAT THE COMMISSIONER OF INSURANCE SHALL OVERSEE THE STATE FUND AND EXAMINE IT BIENNIALY;"

2. Title, line 21.

Following: "2020;"

Insert: "PROVIDING A SPECIAL METHOD OF OFFERING LUMP-SUM SETTLEMENTS FOR CLAIMS ARISING PRIOR TO JULY 1, 1990; REQUIRING THE STATE FUND TO REQUEST PROPOSALS FOR THE SETTLEMENT OF CLAIMS ARISING PRIOR TO JULY 1, 1990, BY PRIVATE CLAIMS ADJUSTERS;"

3. Title, line 22.

Following: "SECTIONS"

Insert: "39-71-116,"

4. Page 2, line 18.

Following: "cost-effective"

Strike: ", most"

Insert: "and"

Following: "most efficient"

Strike: ", and surest"

5. Page 3, line 25.

Following: "1990."

Strike: "Premiums"

Insert: "Except as provided in 39-71-2316(9), premiums"

6. Page 4, line 24.

Strike: "each"

Insert: "the total"

7. Page 8, line 23.

Following: "5-13-305."

Insert: "In addition, the commissioner of insurance shall biennially conduct or have conducted a financial examination of the state fund pursuant to 33-1-401."

8. Page 9, line 4.

Following: line 3

Insert: "Section 7. Section 39-71-116, MCA, is amended to read:

"39-71-116. Definitions. Unless the context otherwise requires, words and phrases employed in this chapter have the following meanings:

(1) "Administer and pay" includes all actions by the state fund under the Workers' Compensation Act and the Occupational Disease Act of Montana necessary to the investigation, review, the settlement of claims, payment of benefits, setting reserves, furnishing services and facilities, and utilization of actuarial, audit, accounting, vocational rehabilitation, and legal services.

~~(1)(2)~~ "Average weekly wage" means the mean weekly earnings of all employees under covered employment, as defined and established annually by the Montana department of labor and industry. It is established at the nearest whole dollar number and must be adopted by the department prior to July 1 of each year.

~~(2)(3)~~ "Beneficiary" means:

(a) a surviving spouse living with or legally entitled to be supported by the deceased at the time of injury;

(b) an unmarried child under the age of 18 years;

(c) an unmarried child under the age of 22 years who is a full-time student in an accredited school or is enrolled in an accredited apprenticeship program;

(d) an invalid child over the age of 18 years who is dependent upon the decedent for support at the time of injury;

(e) a parent who is dependent upon the decedent for support at the time of the injury (however, such a parent is a beneficiary only when no beneficiary, as defined in subsections ~~(2)(a)~~ ~~(3)(a)~~ through ~~(2)(d)~~ ~~(3)(d)~~ of this section, exists); and (f) a brother or sister under the age of 18 years if dependent upon the decedent for support at the time of the injury (however, such a brother or sister is a beneficiary only until the age of 18 years and only when no beneficiary, as defined in subsections ~~(2)(a)~~ ~~(3)(a)~~ through ~~(2)(e)~~ ~~(3)(e)~~ of this section, exists).

~~(3)(4)~~ "Casual employment" means employment not in the usual course of trade, business, profession, or occupation of the employer.



~~(4)~~(5) "Child" includes a posthumous child, a dependent stepchild, and a child legally adopted prior to the injury.

~~(5)~~(6) "Days" means calendar days, unless otherwise specified.

~~(6)~~(7) "Department" means the department of labor and industry.

~~(7)~~(8) "Fiscal year" means the period of time between July 1 and the succeeding June 30.

~~(8)~~(9) "Insurer" means an employer bound by compensation plan No. 1, an insurance company transacting business under compensation plan No. 2, the state fund under compensation plan No. 3, or the uninsured employers' fund provided for in part 5 of this chapter.

~~(9)~~(10) "Invalid" means one who is physically or mentally incapacitated.

~~(10)~~(11) "Maximum healing" means the status reached when a worker is as far restored medically as the permanent character of the work-related injury will permit.

~~(11)~~(12) "Order" means any decision, rule, direction, requirement, or standard of the department or any other determination arrived at or decision made by the department.

~~(12)~~(13) "Payroll", "annual payroll", or "annual payroll for the preceding year" means the average annual payroll of the employer for the preceding calendar year or, if the employer shall not have operated a sufficient or any length of time during such calendar year, 12 times the average monthly payroll for the current year. However, an estimate may be made by the department for any employer starting in business if no average payrolls are available. This estimate is to be adjusted by additional payment by the employer or refund by the department, as the case may actually be, on December 31 of such current year. An employer's payroll must be computed by calculating all wages, as defined in 39-71-123, that are paid by an employer.

~~(13)~~(14) "Permanent partial disability" means a condition, after a worker has reached maximum healing, in which a worker:

(a) has a medically determined physical restriction as a result of an injury as defined in 39-71-119; and

(b) is able to return to work in the worker's job pool pursuant to one of the options set forth in 39-71-1012 but suffers impairment or partial wage loss, or both.

~~(14)~~(15) "Permanent total disability" means a condition resulting from injury as defined in this chapter, after a worker reaches maximum healing, in which a worker is unable to return to work in the worker's job pool after exhausting all options set forth in 39-71-1012.

~~(15)~~(16) The term "physician" includes "surgeon" and in either case means one authorized by law to practice his profession in this state.

~~(16)~~(17) The "plant of the employer" includes the place of business of a

third person while the employer has access to or control over such place of business for the purpose of carrying on his usual trade, business, or occupation.

~~(17)~~(18) "Public corporation" means the state or any county, municipal corporation, school district, city, city under commission form of government or special charter, town, or village.

~~(18)~~(19) "Reasonably safe place to work" means that the place of employment has been made as free from danger to the life or safety of the employee as the nature of the employment will reasonably permit.

~~(19)~~(20) "Reasonably safe tools and appliances" are such tools and appliances as are adapted to and are reasonably safe for use for the particular purpose for which they are furnished.

~~(20)~~(21) "Temporary total disability" means a condition resulting from an injury as defined in this chapter that results in total loss of wages and exists until the injured worker reaches maximum healing.

~~(21)~~(22) "Year", unless otherwise specified, means calendar year."

Renumber: subsequent sections

9. Page 10, lines 13 and 14.

Following: ", the"

Strike: the remainder of line 13 through "and the" on line 14

10. Page 10, line 20.

Following: line 19

Insert: "(2) On or before September 1 of each year, the state fund shall file with the commissioner of insurance a complete statement of its financial condition, transactions, and affairs as of the preceding June 30. The statement must be in the general form and context required by 33-2-701. The executive director shall verify the statement under oath. The commissioner of insurance may, in his discretion, waive any such verification under oath.

(3) The commissioner of insurance may refuse to accept the fee for continuance of the state fund's certificate of authority, as provided in 33-2-117, or may in his discretion suspend or revoke the certificate of authority of the state fund if it fails to file its annual statement when due.

(4) If the commissioner of insurance finds that the executive director, a director, or an employee of the state fund subscribed to, made, or concurred in making or publishing any annual statement or any other statement required by law knowing the same to contain any material statement that was false, the commissioner of insurance shall impose a civil penalty of not more than \$1,000.

(5) At the time of filing, the state fund shall pay the filing fee for the annual statement to the commissioner of insurance as prescribed in 33-2-708.

(6) The commissioner of insurance may impose a civil penalty not to exceed \$100 a day for each day after September 1 that the state fund fails to file the annual statement required by subsection (2). The civil penalty may not exceed a maximum of \$1,000."

Renumber: subsequent subsections

11. Page 10, line 23.

Strike: "existed on"

Insert: "arises from claims for injuries resulting from accidents that occurred before"

12. Page 16, line 10.

Following: "LAW"

Insert: " , "

13. Page 17, lines 13 and 14.

Strike: "— penalty"

14. Page 17, line 17.

Following: "39-71-401"

Insert: " , except that if an employer is subject to 15-30-204(2), the tax is an amount equal to 0.28% of the employer's payroll in the preceding week"

15. Page 18, lines 9 through 15.

Strike: subsections (1)(b) and (1)(c) in their entirety

Renumber: subsequent sections

16. Page 18, lines 20 through 22.

Strike: subsection (1)(e) in its entirety

17. Page 19, line 2.

Following: line 1

Insert: "(3) (a) On or before the last day of April, July, October, and January, each employer subject to the tax shall file a return in the form and containing the information required by the department and, except as provided in subsection (3)(b), pay the amount of tax required by this section to be paid on the employer's payroll for the preceding calendar quarter.

(b) An employer subject to 15-30-204(2) shall remit to the department a weekly payment with its weekly withholding tax payment in the amount required by subsection (1)(a).

(c) A tax payment required by subsection (1)(a) must be made with the return filed pursuant to 15-30-204. The department shall first credit a payment to the liability under 15-30-202 and credit any remainder to the workers' compensation tax account provided in 39-71-2504.

(4) An employer's officer or employee with the duty to collect, account for, and pay to the department the amounts due under this section who willfully fails to pay an amount is liable to the state for the unpaid amount and any penalty and interest relating to that amount.

(5) Returns and remittances under subsection (3) and any information obtained by the department during an audit are subject to the provisions of 15-30-303, but the department may disclose the information to the department of labor and industry under circumstances and conditions that ensure the continued confidentiality of the information.

(6) The department of labor and industry, including the workers' compensation division, and the state fund shall, on [the effective date of



this act] or as soon after that date as possible, give the department a list of all employers having coverage under any plan administered or regulated by the department of labor and industry and the state fund. After the lists have been given to the department, the department of labor and industry and the state fund shall update the lists weekly. The department of labor and industry, including the workers' compensation division, and the state fund, shall provide the department with access to their computer data bases and paper files and records for the purpose of the department's administration of the tax imposed by this section."

Renumber: subsequent subsections

18. Page 19, lines 2 and 3.

Strike: "Sections" through "15-35-122" on line 3

Insert: "The provisions of Title 15, chapter 30, not in conflict with the provisions of this part"

19. Page 19, line 3.

Following: "regarding"

Insert: "administration, remedies, enforcement, collections, hearings, interest,"

20. Page 20, line 10.

Following: line 9

Insert: "NEW SECTION. Section 18. Coordination with Occupational Disease Act of Montana. For purposes of [this act] and the administration of Title 39, chapter 72, a reference in [this act] to an injury resulting from an accident or to a claim for an injury resulting from an accident includes a disablement as defined in 39-72-102(4).

NEW SECTION. Section 19. Transfer of accounts receivable. The department of revenue is not responsible for the collection of an account receivable it takes over from the department of labor and industry on [the effective date of this section] if the account is more than 720 days past due or is an account of an employer that is no longer in business. Such accounts must be transferred to the attorney general for collection.

NEW SECTION. Section 20. Settlement of fixed benefit claims that arose prior to July 1, 1990. (1) The state fund shall offer a lump-sum settlement to each person who has a claim that arose before July 1, 1990, for which the state fund has accepted liability and has fixed benefits. The lump-sum settlement must be 80% of the amount of liability accepted by the state fund, discounted to present value. Each settlement offer must contain a provision granting the state fund a full and unconditional release of liability in exchange for accepting the lump-sum settlement. The claimant shall accept a lump-sum settlement in writing before November 1, 1990, or the settlement offer is void.

(2) If the lump-sum settlement offer made pursuant to subsection (1) is not accepted, the lump-sum law in effect on the date of the injury applies.

NEW SECTION. Section 21. Request for proposals for claims settlement. The state fund shall prepare a request for proposals for contracting with private claims adjusters for settling the claims of persons whose benefits have not been determined under a claim that arose before July 1, 1990. The request for proposals may be based upon a dollar amount of unsettled claims or upon a percentage of claims for which benefits have not been determined. The state fund may not enter into a



contract based upon a proposal until it has reported the results of the proposals to the 52nd legislature and has received legislative authorization to enter into a contract based upon a proposal."

Renumber: subsequent sections

21. Page 21, line 11.

Strike: "14 and 16"

Insert: "13, 15, 17, 18, and 20"

Strike: "23"

Insert: "28"

22. Page 21, line 13.

Strike: "[Section 15] is"

Insert: "The change in the tax rate in 39-71-2503(1)(a) and the amendment inserted at the end of the first sentence of 39-71-2503(1)(a) by [section 16] are"

23. Page 21, line 14.

Strike: "applies"

Insert: "apply"

24. Page 21, line 15.

Following: line 14.

Insert: "(3) [Sections 14 and 19] and all other amendments to 39-71-2503 contained in [section 16] are effective July 1, 1991."

25. Page 21, line 16.

Strike: "11"

Insert: "12"

Strike: "13"

Insert: "14"

Strike: "16"

Insert: "17"

26. Page 26, line 20.

Following: "FUND"

Strike: "."

And, as amended, do pass. Report adopted.

## MESSAGES FROM THE SENATE

May 22, 1990

John Vincent, Speaker  
House of Representatives  
State Capitol  
Helena, MT 59620

Dear Mr. Speaker:

I am directed by the Senate to inform the House of Representatives that the following Senate Bill was this day, May 22, 1990, read three several times, and passed, title and history agreed to, and the said bill is herewith transmitted to the House for concurrence.

Senate Bill No. 1, introduced by Senator Gage

Respectfully,

JOHN W. LARSON  
Secretary of the Senate

### MESSAGES FROM THE GOVERNOR

May 22, 1990

The Honorable Jack Galt  
President, Montana Senate  
The Honorable John Vincent  
Speaker, Montana House of Representatives  
Members of the Montana State Senate  
Members of the Montana House of Representatives  
Montana State Elected Officials  
Justices of the Montana Supreme Court

On May 14, 1990, I received an Order from the Montana Supreme Court regarding the cause entitled "In the Matter of the Appointment of a Chief Water Judge for the Remainder of a Term Commencing May 14, 1990 and for the Duration of the Term Ending June 30 1993."

The Order provided for the appointment of C. Bruce Loble of Helena, Montana as the Chief Water Judge of the state of Montana. The appointment was concurred in by the remaining Justices of the Montana Supreme Court. Chief Justice Turnage has conveyed to me that it is imperative that C. Bruce Loble's confirmation be heard and considered by the Montana State Senate when it convenes in special session on May 21, 1990; failure to confirm before the Senate adjourns will create a vacancy in that office. I concur in that observation.

Therefore, by the power vested in me by Section 6, Article V and Section 11, Article VI of the Montana Constitution and such other applicable laws, I hereby request that the Montana Legislature and, more specifically, the Montana State Senate consider the confirmation of the selection of Chief Water Judge C. Bruce Loble in addition to the specific considerations contained in my letter calling for the special session dated May 4, 1990.

Sincerely,

STAN STEPHENS  
Governor

### FIRST READING AND COMMITMENT OF BILLS AND RESOLUTIONS

The following Senate bill was introduced, read first time, and referred to committee:

SB 1, introduced by Gage, referred to Committee on Taxation

### MOTIONS

Representative Harper moved the House suspend its rules to consider HB 1 on second and third readings this legislative day. Motion carried.

Representative Harper moved the House suspend its rules to consider HB 2 on second and third readings this legislative day. Motion carried.

**SECOND READING OF BILLS  
(COMMITTEE OF THE WHOLE)**

Representative Harper moved the House resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Representative Addy in the Chair.

Speaker Vincent: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

**HB 2** - Representative Glaser moved HB 2 do pass.

Representative Cobb made a substitute motion to revert to the body of the bill for the purpose of amendment. Motion carried.

Representative Cobb moved HB 2, second reading copy, be amended as follows:

1. Page 29, line 3.

Following: "LIABILITY"

Insert: ", other than liability for medical benefits,"

2. Page 29, line 7.

Following: "LIABILITY"

Insert: ", other than liability for medical benefits,"

Amendment passed as follows:

Ayes: Aafedt, Addy, Bachini, Bardanouve, Blotkamp, Bradley, D. Brown, J. Brown, Campbell, Clark, Cobb, Cocchiarella, Cody, Cohen, Compton, Connelly, Cooper, Daily, Darko, Davis, DeBruycker, DeMars, Driscoll, Elliott, Ellison, Eudaily, Gervais, Gilbert, Glaser, Good, Gould, Grady, Grinde, Guthrie, Hansen, Hanson, Harper, Harrington, Hayne, Hoffman, Iverson, Johnson, Kadas, Kasten, Keller, Kilpatrick, Kimberley, Knapp, Koehnke, Lee, McCormick, McDonough, Menahan, Mercer, Moore, R. Nelson, T. Nelson, Nisbet, O'Connell, O'Keefe, Owens, Patterson, Pavlovich, Peck, Peterson, Phillips, Quilici, Ramirez, Raney, Ream, Rehberg, Rice, Roth, Russell, Schye, Simon, Simpkins, Smith, Spaeth, Spring, Squires, Stang, Steppler, Stickney, Strizich, Swift, Swysgood, Thoft, Thomas, Tunby, Vogel, Wallin, Westlake, Whalen, Wyatt, Zook, Mr. Speaker.

Total 97

Noes: Boharski.

Total 1

Excused: Brooke, L. Nelson.

Total 2

Absent or not voting: None.

Total 0

Representative Glaser moved HB 2, as amended, do pass. Motion carried as follows:

Ayes: Aafedt, Addy, Bardanouve, Blotkamp, Bradley, Brooke, D. Brown, J. Brown, Clark, Cobb, Cocchiarella, Cohen, Compton, Connelly, Cooper, Daily, Darko, Davis, DeMars, Driscoll, Elliott, Ellison, Eudaily, Gervais, Gilbert, Glaser, Gould, Grady, Hansen, Hanson, Harper, Harrington, Hayne, Hoffman, Iverson, Johnson, Kadas, Keller, Kilpatrick, Kimberley, Knapp, Koehnke, McCormick, McDonough, Menahan, Mercer, Moore, L. Nelson, T. Nelson, Nisbet, O'Connell, O'Keefe, Owens, Patterson, Pavlovich, Peterson, Quilici, Ramirez, Ream, Rehberg, Roth, Russell, Simon, Simpkins, Smith, Spaeth, Spring, Squires, Stang, Stepler, Stickney, Strizich, Swift, Thoft, Thomas, Tunby, Vogel, Wallin, Westlake, Wyatt, Zook, Mr. Speaker.  
Total 82

Noes: Bachini, Boharski, Campbell, Cody, DeBruycker, Good, Grinde, Guthrie, Kasten, Lee, R. Nelson, Peck, Phillips, Raney, Rice, Schye, Swysgood, Whalen.  
Total 18

Paired: Brooke, L. Nelson, Ayes; DeBruycker, Kasten, Noes.

Excused: None.  
Total 0

Absent or not voting: None.  
Total 0

**HB 1** - Representative Thoft moved HB 1 do pass. Motion carried as follows:

Ayes: Aafedt, Bachini, Bardanouve, Boharski, Bradley, Brooke, J. Brown, Campbell, Clark, Cobb, Cocchiarella, Cody, Compton, Cooper, Darko, Davis, DeBruycker, DeMars, Ellison, Eudaily, Gilbert, Glaser, Good, Gould, Grady, Grinde, Guthrie, Hansen, Hanson, Hayne, Hoffman, Iverson, Johnson, Kadas, Kasten, Keller, Kilpatrick, Kimberley, Knapp, Koehnke, Lee, Mercer, Moore, L. Nelson, R. Nelson, T. Nelson, O'Connell, Owens, Patterson, Peck, Peterson, Phillips, Ramirez, Raney, Ream, Rehberg, Rice, Roth, Russell, Schye, Simon, Simpkins, Smith, Spaeth, Spring, Stang, Stepler, Stickney, Strizich, Swift, Swysgood, Thoft, Thomas, Tunby, Vogel, Wallin, Westlake, Zook, Mr. Speaker.  
Total 79

Noes: Addy, Blotkamp, D. Brown, Cohen, Connelly, Daily, Driscoll, Elliott, Gervais, Harper, Harrington, McCormick, McDonough, Menahan, Nisbet, O'Keefe, Pavlovich, Quilici, Squires, Whalen, Wyatt.  
Total 21

Paired: Brooke, L. Nelson, Ayes; Harrington, Wyatt, Noes.

Excused: None.  
Total 0

Absent or not voting: None.  
Total 0

Representative Harper moved the committee rise and report. Motion carried. Committee arose. House resumed. Speaker Vincent in the Chair. Chairman Addy moved the adoption of the committee report. Report adopted. (80-18)



### THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

**HB 1** passed as follows:

Ayes: Aafedt, Bachini, Bardanouve, Boharski, Bradley, Brooke, J. Brown, Campbell, Clark, Cobb, Cocchiarella, Compton, Cooper, Darko, Davis, DeBruycker, DeMars, Ellison, Eudaily, Gilbert, Glaser, Good, Gould, Grady, Grinde, Guthrie, Hansen, Hanson, Hayne, Hoffman, Iverson, Johnson, Kadas, Kasten, Keller, Kilpatrick, Kimberley, Knapp, Koehnke, Lee, Mercer, Moore, L. Nelson, R. Nelson, T. Nelson, O'Connell, Owens, Patterson, Peck, Peterson, Phillips, Ramirez, Ream, Rehberg, Rice, Roth, Schye, Simon, Simpkins, Smith, Spaeth, Spring, Stang, Steppler, Stickney, Strizich, Swift, Swysgood, Thoft, Thomas, Tunby, Vogel, Wallin, Westlake, Zook, Mr. Speaker.  
Total 76

Noes: Addy, Blotkamp, D. Brown, Cohen, Connelly, Daily, Driscoll, Elliott, Gervais, Harper, Harrington, McCormick, McDonough, Menahan, Nisbet, O'Keefe, Pavlovich, Quilici, Raney, Russell, Squires, Whalen, Wyatt.  
Total 23

Paired: Brooke, L. Nelson, Ayes; Harrington, Wyatt, Noes.

Excused: None.  
Total 0

Absent or not voting: Cody.  
Total 1

**HB 2** passed as follows:

Ayes: Aafedt, Addy, Bardanouve, Blotkamp, Bradley, Brooke, J. Brown, Clark, Cobb, Cocchiarella, Cohen, Compton, Connelly, Cooper, Daily, Darko, Davis, DeMars, Driscoll, Elliott, Ellison, Eudaily, Gilbert, Glaser, Gould, Grady, Hansen, Hanson, Harper, Hayne, Hoffman, Iverson, Johnson, Kadas, Keller, Kilpatrick, Kimberley, Knapp, Koehnke, McCormick, McDonough, Menahan, Mercer, Moore, L. Nelson, T. Nelson, Nisbet, O'Connell, O'Keefe, Owens, Patterson, Pavlovich, Peterson, Quilici, Ramirez, Ream, Rehberg, Roth, Russell, Simon, Simpkins, Smith, Spaeth, Spring, Squires, Stang, Steppler, Stickney, Strizich, Swift, Thoft, Thomas, Tunby, Vogel, Wallin, Westlake, Wyatt, Zook, Mr. Speaker.  
Total 79

Noes: Bachini, Boharski, D. Brown, Campbell, Cody, DeBruycker, Gervais, Good, Grinde, Guthrie, Harrington, Kasten, Lee, R. Nelson, Peck, Phillips, Raney, Rice, Schye, Swysgood, Whalen.  
Total 21

Paired: Brooke, L. Nelson, Ayes; DeBruycker, Kasten, Noes.

Excused: None.  
Total 0

Absent or not voting: None.  
Total 0

## ANNOUNCEMENTS

Committee meetings were announced by committee chairmen.

Representative Harper moved the House adjourn until 8:00 a.m., Wednesday, May 23, 1990. Motion carried.

House adjourned at 8:20 p.m.

John Vincent, Speaker

Joyce Andrus, Chief Clerk

### THIRD LEGISLATIVE DAY

Helena, Montana  
May 23, 1990

House Chambers  
State Capitol

House convened at 8:00 a.m. Speaker Pro Tempore Addy in the Chair.  
Invocation by Representative Hayne. Pledge of Allegiance to the Flag.

Roll call. All members present except Blotkamp, L. Nelson, Russell and Whalen, excused. Quorum present.

Representative Harper moved the House recess until 8:45 a.m. Motion carried.

House recessed at 8:05 a.m.

House reconvened at 9:10 a.m. Speaker Pro Tempore Addy in the Chair.

Representatives Blotkamp, Russell and Whalen present at this time.

Representatives Grady and Thoft excused at this time.

#### SECOND READING OF BILLS (COMMITTEE OF THE WHOLE)

Representative Harper moved the House resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Representative Ream in the Chair.

Speaker Vincent: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

**HB 6** - Representative Bardanouve moved HB 6 do pass. Motion carried as follows:

Ayes: Aafedt, Addy, Bachini, Bardanouve, Blotkamp, Bradley, Brooke, D. Brown, J. Brown, Campbell, Clark, Cobb, Cocchiarella, Cody, Cohen, Compton, Connelly, Cooper, Daily, Darko, Davis, DeBruycker, DeMars, Driscoll, Elliott, Ellison, Eudaily, Gervais, Gilbert, Glaser, Good, Gould, Grinde, Guthrie, Hansen, Hanson, Harper, Harrington, Hayne, Hoffman, Iverson, Johnson, Kadas, Keller, Kilpatrick, Kimberley, Knapp, Koehnke, McCormick, McDonough, Menahan, Mercer, Moore, R. Nelson, T. Nelson, Nisbet, O'Connell, O'Keefe, Owens, Pavlovich, Peck, Peterson, Quilici, Raney, Ream, Rehberg, Rice, Roth, Russell, Schye, Simon, Simpkins, Smith, Spaeth, Spring, Squires, Stang, Steppler, Stickney, Strizich, Swift, Swysgood, Thomas, Tunby, Vogel, Wallin, Westlake, Whalen, Wyatt, Zook, Mr. Speaker.  
Total 91

Noes: Boharski, Patterson, Phillips.  
Total 3

Excused: Grady, L. Nelson, Thoft.  
Total 3

Absent or not voting: Kasten, Lee, Ramirez.  
Total 3

Representative Harper moved the committee rise and report. Motion carried. Committee arose. House resumed. Speaker Pro Tempore Addy in the Chair. Chairman Ream moved the adoption of the committee report. Report adopted. (92-1)

Representative Harper moved the House recess until 3:00 p.m. Motion carried.

House recessed at 9:20 a.m.

House reconvened at 3:00 p.m. Speaker Vincent in the Chair.

Representatives Grady and Thoft present at this time.

Representative Spaeth excused at this time.

### REPORTS OF STANDING COMMITTEES

BILLS (Menahan, Chairman): 5/23/90  
Correctly engrossed: HB 6.

TAXATION (Harrington, Chairman): 5/23/90  
SB 1, third reading copy, be amended as follows:

1. Title, line 8.

Following: "GAS"

Insert: "STATE AND"

2. Title, lines 9 through 11.

Strike: "IMPOSING" on line 9 through "PRODUCTION;" on line 11

3. Title, lines 16 and 17.

Strike: "CLARIFYING" on line 16 through "WELLS;" on line 17

4. Title, lines 19 and 20.

Strike: "CLARIFYING" on line 19 through "WELLS;" on line 20

5. Title, line 23.

Following: "BASE;"

Insert: "PROVIDING A STUDY OF THE FLAT TAX SYSTEM BY THE  
REVENUE OVERSIGHT COMMITTEE;"

6. Page 9, lines 15 and 16.

Strike: "=" on line 15 through "exemption" on line 16

7. Page 10, line 6.

Strike: "Except as provided in subsection (3), the"

Insert: "The"

8. Page 10, line 9.

Following: "in"

Strike: "subsections"

Insert: "subsection"

Following: "(b),"

Strike: remainder of line 9 in its entirety

9. Page 10, line 10.



Strike: "(1)(d), and (1)(e)."

10. Page 10, line 11.

Strike: "taxable"

11. Page 10, line 13.

Strike: "8.4%"

Insert: "8.93%"

12. Page 10, line 14.

Strike: "taxable"

13. Page 10, line 25.

Strike: "taxable"

14. Page 11, line 1.

Strike: "15.25%"

Insert: "16.21%"

15. Page 11, line 2.

Strike: "taxable"

16. Page 11, line 12.

Strike: ";;"

Insert: "."

17. Page 11, line 13 through page 13, line 12.

Strike: subsections (1)(c) through (1)(e) in their entirety

18. Page 13, line 24 through page 14, line 18.

Strike: subsection (3) in its entirety

Renumber: subsequent subsections

19. Page 16, lines 11 through 21.

Strike: line 11 through ")" on line 21

20. Page 20, lines 9 and 10.

Strike: "— imposition of local government severance tax"

21. Page 20, line 25 through page 22, line 3.

Strike: subsections (3) through (6) in their entirety

22. Page 22, line 3.

Strike: "Subsections"

Insert: "Subsection"

Following: "(2)"

Strike: remainder of line 3 in its entirety

23. Page 22, line 4.

Strike: "terminate"

Insert: "terminates"

24. Page 25.

Following: line 15

Insert: "**NEW SECTION.** Section 5. Revenue oversight study. The revenue oversight committee shall study the new methods of taxing coal, oil, and natural gas production that were mandated by House Bill No. 28, Special Laws of June 1989, and as amended by [this act]. The committee shall report its findings to the 52nd legislature."

Renumber: subsequent sections

And, as amended, be concurred in. Report adopted.

Representative Harper moved the House recess until 3:45 p.m. Motion carried.

House recessed at 3:05 p.m.

House reconvened at 3:50 p.m. Speaker Vincent in the Chair.

Representative Thomas excused at this time.

### MOTIONS

Representative Harper moved the House suspend its rules to allow the consideration of SB 1 on second and third readings this legislative day. Motion carried.

Representative Harper moved the House suspend its rules to allow the consideration of HB 6 on third reading this legislative day. Motion carried.

### SECOND READING OF BILLS (COMMITTEE OF THE WHOLE)

Representative Harper moved the House resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Representative Ream in the Chair.

Speaker Vincent: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

**SB 1** - Representative Kadas moved SB 1 be concurred in as amended.

Representative Gilbert made a substitute motion to revert to the body of the bill for the purpose of amendment. Motion carried.

Representative Gilbert moved SB 1, third reading copy, be amended.

Amendment failed. (47-51)

Representative Lee excused at this time.

Representative Kadas moved SB 1 be concurred in as amended. Motion carried as follows:

Ayes: Addy, Bachini, Bardanoue, Blotkamp, Bradley, Brooke, D. Brown, J. Brown, Cocchiarella, Cody, Cohen, Connelly, Daily, Darko, Davis, DeMars, Driscoll, Elliott, Eudaily, Gervais, Hansen, Harper, Harrington, Johnson, Kadas, Kilpatrick, Kimberley, Koehnke, McCormick, McDonough, Menahan, Moore, Nisbet, O'Connell, O'Keefe, Pavlovich, Peck, Quilici, Raney, Ream,

Russell, Schye, Spaeth, Squires, Stang, Steppler, Stickney, Strizich, Westlake, Whalen, Wyatt, Mr. Speaker.  
Total 52

Noes: Aafedt, Boharski, Campbell, Clark, Cobb, Compton, Cooper, DeBruycker, Ellison, Gilbert, Glaser, Good, Gould, Grady, Grinde, Guthrie, Hanson, Hayne, Hoffman, Iverson, Kasten, Keller, Knapp, Lee, Mercer, R. Nelson, T. Nelson, Owens, Patterson, Peterson, Phillips, Ramirez, Rehberg, Rice, Roth, Simon, Simpkins, Smith, Spring, Swift, Swysgood, Thoft, Thomas, Tunby, Vogel, Wallin, Zook.  
Total 47

Paired: Driscoll, Spaeth, Stang, Ayes; Lee, Rehberg, Thomas, Noes.

Excused: L. Nelson.  
Total 1

Absent or not voting: None.  
Total 0

Representative Harper moved the committee rise, report and beg leave to sit again. Motion carried. Committee arose. House resumed. Speaker Vincent in the Chair. Chairman Ream moved the adoption of the committee report. Report adopted. (55-41)

### THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

**SB 1** concurred in as follows:

Ayes: Addy, Bachini, Bardanouve, Blotkamp, Bradley, Brooke, D. Brown, J. Brown, Cocchiarella, Cody, Cohen, Connelly, Daily, Darko, Davis, DeMars, Driscoll, Elliott, Eudaily, Gervais, Hansen, Harper, Harrington, Johnson, Kadas, Kilpatrick, Kimberley, Knapp, Koehnke, McCormick, McDonough, Menahan, Moore, Nisbet, O'Connell, O'Keefe, Pavlovich, Peck, Quilici, Raney, Ream, Russell, Schye, Spaeth, Squires, Stang, Steppler, Stickney, Strizich, Westlake, Whalen, Wyatt, Mr. Speaker.  
Total 53

Noes: Aafedt, Boharski, Campbell, Clark, Cobb, Compton, Cooper, DeBruycker, Ellison, Gilbert, Glaser, Good, Gould, Grady, Grinde, Guthrie, Hanson, Hayne, Hoffman, Iverson, Kasten, Keller, Lee, Mercer, R. Nelson, T. Nelson, Owens, Patterson, Peterson, Phillips, Ramirez, Rehberg, Rice, Roth, Simon, Simpkins, Smith, Spring, Swift, Swysgood, Thoft, Thomas, Tunby, Vogel, Wallin, Zook.  
Total 46

Paired: Driscoll, Spaeth, Stang, Ayes; Lee, Rehberg, Thomas, Noes.

Excused: L. Nelson.  
Total 1

Absent or not voting: None.

Total 0

**HB 6** passed as follows:

Ayes: Aafedt, Addy, Bachini, Bardanouve, Blotkamp, Bradley, Brooke, D. Brown, J. Brown, Clark, Cobb, Cocchiarella, Cody, Cohen, Compton, Connelly, Daily, Darko, Davis, DeMars, Driscoll, Elliott, Ellison, Eudaily, Gervais, Gilbert, Glaser, Good, Gould, Grady, Grinde, Guthrie, Hansen, Hanson, Harper, Harrington, Hayne, Hoffman, Iverson, Johnson, Kadas, Kasten, Keller, Kilpatrick, Kimberley, Knapp, Koehnke, McCormick, McDonough, Menahan, Mercer, Moore, R. Nelson, T. Nelson, Nisbet, O'Connell, O'Keefe, Owens, Pavlovich, Peck, Peterson, Quilici, Raney, Ream, Rehberg, Rice, Roth, Russell, Schye, Simon, Simpkins, Smith, Spring, Squires, Stang, Steppler, Stickney, Strizich, Swift, Swysgood, Thoft, Tunby, Wallin, Westlake, Whalen, Wyatt, Zook, Mr. Speaker.

Total 88

Noes: Boharski, Campbell, Cooper, DeBruycker, Patterson, Phillips, Ramirez, Vogel.

Total 8

Excused: Lee, L. Nelson, Spaeth, Thomas.

Total 4

Absent or not voting: None.

Total 0

## MOTIONS

Representative Harper moved the House suspend any relevant rules to allow the appointment of a free conference committee on House amendments to SB 1. Motion carried.

Representative Harper moved the Speaker be authorized to appoint a free conference committee to meet with a like committee from the Senate to confer on House amendments to SB 1. Motion carried.

Speaker Vincent appointed the following members:

Representative Schye, Chairman

Representative Kadas

Representative Patterson

## ANNOUNCEMENTS

Representative Harper moved the House adjourn until 8:00 a.m., Thursday, May 23, 1990. Motion carried.

House adjourned at 4:50 p.m.

John Vincent, Speaker

Joyce Andrus, Chief Clerk



## FOURTH LEGISLATIVE DAY

Helena, Montana  
May 24, 1990

House Chambers  
State Capitol

House convened at 8:10 a.m. Speaker Vincent in the Chair. Invocation by Representative Swift. Pledge of Allegiance to the Flag.

Roll call. All members present except Campbell, Roth and Whalen, excused. Quorum present.

### MESSAGES FROM THE SENATE

May 23, 1990

John Vincent, Speaker  
House of Representatives  
State Capitol  
Helena, MT 59620

Dear Mr. Speaker:

I am directed by the Senate to inform the House of Representatives that the following House Bill was this day, May 23, 1990, read three several times, and concurred in, title and history agreed to, and the said bill is herewith returned to the House.

House Bill No. 1, introduced by Representative Thoft

Respectfully,

JOHN W. LARSON  
Secretary of the Senate

May 24, 1990

John Vincent, Speaker  
House of Representatives  
State Capitol  
Helena, MT 59620

Dear Mr. Speaker:

I am directed by the Senate to inform the House of Representatives that the Senate on May 24, 1990, rejected the House Amendments to Senate Bill No. 1, and the President was authorized to appoint a Free Conference Committee.

The President appointed the following members:

Senator Del Gage, Chairman  
Senator Bruce Crippen  
Senator Joe Mazurek

The Senate requests that the House appoint a like committee to confer on the House Amendments to Senate Bill No. 1.

Respectfully,

JOHN W. LARSON  
Secretary of the Senate

Representative Harper moved the House recess until 1:30 p.m. Motion carried.

House recessed at 8:20 a.m.

House reconvened at 1:40 p.m. Speaker Vincent in the Chair.

Representative Harper moved the House recess until 4:00 p.m. Motion carried.

House recessed at 1:42 p.m.

House reconvened at 4:00 p.m. Speaker Vincent in the Chair.

Representatives Campbell and Whalen present at this time.

### MESSAGES FROM THE SENATE

May 24, 1990

John Vincent, Speaker  
House of Representatives  
State Capitol  
Helena, MT 59620

Dear Mr. Speaker:

I am directed by the Senate to inform the House of Representatives that the following House Bill was this day, May 24, 1990, read three several times, and concurred in as amended, title and history agreed to, and the said bill is herewith returned to the House for concurrence in the Senate Amendments.

House Bill No. 2, introduced by Representative Glaser

Respectfully,

JOHN W. LARSON  
Secretary of the Senate

### SPECIAL ORDERS OF THE DAY

Speaker Vincent introduced this week's pages:

Shawna Champine (Helena)  
Eric Engsted (Helena)  
Chad Doheny (Dutton)  
Michelle Wheat (Helena)  
Chris Nicholson (Helena)  
Kelly Clark (Ryegate)  
Zak Anderson (Helena)

May 24, 1990

## SECOND READING OF BILLS (COMMITTEE OF THE WHOLE)

Representative Harper moved the House resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Representative Iverson in the Chair.

Speaker Vincent: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

Representative Blotkamp excused at this time.

**HB 2** - Representative Glaser moved Senate amendments to HB 2 be not concurred in. Motion carried as follows:

Ayes: Aafedt, Addy, Bachini, Bardanouve, Boharski, Bradley, Brooke, D. Brown, J. Brown, Clark, Cobb, Cocchiarella, Cody, Cohen, Compton, Connelly, Cooper, Daily, Darko, Davis, DeBruycker, DeMars, Driscoll, Elliott, Ellison, Eudaily, Gervais, Gilbert, Glaser, Good, Gould, Grady, Grinde, Guthrie, Hansen, Hanson, Harper, Harrington, Hoffman, Iverson, Johnson, Kadas, Kasten, Keller, Kilpatrick, Kimberley, Knapp, Koehnke, Lee, McCormick, McDonough, Menahan, Mercer, Moore, L. Nelson, R. Nelson, T. Nelson, Nisbet, O'Connell, O'Keefe, Owens, Patterson, Pavlovich, Peck, Peterson, Quilici, Ramirez, Raney, Ream, Rehberg, Schye, Smith, Spaeth, Spring, Squires, Stang, Steppler, Stickney, Strizich, Swift, Swysgood, Thoft, Thomas, Tunby, Vogel, Wallin, Westlake, Whalen, Wyatt, Zook, Mr. Speaker.  
Total 91

Noes: Campbell, Phillips, Rice.  
Total 3

Excused: Blotkamp, Roth.  
Total 2

Absent or not voting: Hayne, Russell, Simon, Simpkins.  
Total 4

Representative Harper moved the committee rise, report and beg leave to sit again. Motion carried. Committee arose. House resumed. Speaker Vincent in the Chair. Chairman Iverson moved the adoption of the committee report. Report adopted. (94-2)

## MOTIONS

Representative Harper moved the House suspend any relevant rules to allow the appointment of a free conference committee on Senate amendments to HB 2. Motion carried.

Representative Harper moved the Speaker be authorized to appoint a free conference committee to meet with a like committee from the Senate to confer on Senate amendments to HB 2. Motion carried.

Speaker Vincent appointed the following members:

Representative Harper, Chairman  
Representative Driscoll  
Representative Glaser

HOUSE JOURNAL  
MAY 1990 SPECIAL SESSION

ANNOUNCEMENTS

Representative Harper moved the House adjourn until 8:00 a.m., Friday, May 25, 1990. Motion carried.

House adjourned at 4:20 p.m.

John Vincent, Speaker

Joyce Andrus, Chief Clerk



## FIFTH LEGISLATIVE DAY

Helena, Montana  
May 25, 1990

House Chambers  
State Capitol

House convened at 8:00 a.m. Speaker Vincent in the Chair. Invocation by Representative Spaeth. Pledge of Allegiance to the Flag.

Roll call. All members present except Peterson, Roth and Russell, excused. Quorum present.

### MESSAGES FROM THE SENATE

May 24, 1990

John Vincent, Speaker  
House of Representatives  
State Capitol  
Helena, MT 59620

Dear Mr. Speaker:

I am directed by the Senate to inform the House of Representatives that the Senate on this day, May 24, 1990, acceded to the request of the House and authorized the President to appoint a Free Conference Committee to meet with a like committee of the House on House Bill No. 2.

The President appointed the following members:

Senator Gary Aklestad, Chairman  
Senator Gene Thayer  
Senator Bill Norman

Respectfully,

JOHN W. LARSON  
Secretary of the Senate

Representative Harper moved the House recess until 10:30 a.m. Motion carried.

House recessed at 8:06 a.m.

House reconvened at 10:35 a.m. Speaker Vincent in the Chair.

### REPORTS OF STANDING COMMITTEES

BILLS (Menahan, Chairman):

5/25/90

Correctly enrolled: HB 1.

Examined by the sponsor and found to be correct: HB 1.

Representative Harper moved the House recess until 1:00 p.m. Motion carried.

House recessed at 10:40 a.m.

House reconvened at 1:05 p.m. Speaker Vincent in the Chair.

## REPORTS OF STANDING COMMITTEES

BILLS (Menahan, Chairman):

5/25/90

Signed by the Speaker at 11:45 a.m., 5/25/90: HB 1.

Representative Harper moved the House recess until 3:30 p.m. Motion carried.

House recessed at 1:08 p.m.

House reconvened at 4:30 p.m. Speaker Vincent in the Chair.

Representatives Cody, Good and Moore excused at this time.

## REPORTS OF STANDING COMMITTEES

BILLS (Menahan, Chairman):

5/25/90

Correctly enrolled: HB 6.

Examined by the sponsor and found to be correct: HB 6.

Signed by the Speaker at 2:45 p.m., 5/25/90: HB 6.

Delivered to the Governor for his approval at 2:15 p.m., 5/25/90: HB 1.

Delivered to the Governor for his approval at 3:45 p.m., 5/25/90: HB 6.

## REPORTS OF SELECT COMMITTEES

Free Conference Committee Report  
on Senate Bill 1  
Report No. 1, May 25, 1990

Mr. President and Mr. Speaker:

We, your Free Conference Committee on Senate Bill 1 met and considered:

House Committee on Taxation's report of May 23, 1990 (green sheet) that amended Senate Bill 1 (reference copy — salmon).

We recommend that Senate Bill 1 (reference copy — salmon) be amended as follows:

[adopted May 25 at 14:30]

1. Title, line 8.

Following: ~~"PRODUCTION;"~~

Insert: "GENERALLY"

Strike: ~~"STATE AND"~~

2. Title, line 11.

Following: ~~"PRODUCTION;"~~

Insert: "IMPOSING A REVENUE NEUTRAL LOCAL GOVERNMENT  
SEVERANCE TAX RATE ON NONWORKING INTEREST OWNERS  
OF OIL AND NATURAL GAS PRODUCTION;"

3. Title, line 20.

Following: ~~"WELLS;"~~

Insert: "CLARIFYING THE APPLICATION OF THE LOCAL GOVERNMENT SEVERANCE TAX TO NATURAL GAS STRIPPER WELLS; CLARIFYING THE LOCAL GOVERNMENT SEVERANCE TAX ON OIL STRIPPER WELLS;"

4. Title, line 23.

Following: "PROVIDING"

Insert: "FOR"

5. Title, line 24.

Following: "COMMITTEE"

Insert: "AND FOR REPORTS TO THE LEGISLATURE BY THE DEPARTMENT OF REVENUE"

6. Pages 2 through 26.

Strike: everything following the enacting clause

Insert: "Section 1. Section 15-36-101, MCA, is amended to read:

"15-36-101. Definitions and rate of tax ~~— state severance tax —~~ local government severance tax ~~— assessment of nonworking interest owner — exemption.~~ (1) Every person engaging in or carrying on the business of producing petroleum, other mineral or crude oil, or natural gas within this state or engaging in or carrying on the business of owning, controlling, managing, leasing, or operating within this state any well or wells from which any merchantable or marketable petroleum, other mineral or crude oil, or natural gas is extracted or produced ~~sufficient in quantity to justify the marketing of the same must~~ shall, except as provided in 15-36-121, each year when engaged in or carrying on the business in this state pay to the department of revenue a state severance tax for the exclusive use and benefit of the state of Montana plus a local government severance tax in lieu of a tax on net proceeds for the exclusive use and benefit of local government. ~~The~~ Except as provided in subsection (3), the state severance tax and the local government severance tax are computed at the following rates as follows:

(a) except as provided in subsections (1)(b), (1)(c), ~~and (1)(d), and (1)(e).~~ a 5% ~~of state severance tax on~~ the total gross taxable value of all the petroleum and other mineral or crude oil produced by the person, plus the local government severance tax of 8.4% ~~on production the gross taxable value of all the petroleum and other mineral or crude oil produced by the person~~ other than interim production and new production, from each lease or unit; but in determining the amount of ~~the state severance tax and local government severance tax,~~ there must be excluded from consideration all petroleum or other crude or mineral oil produced and used by the person during the year in connection with his operations in prospecting for, developing, and producing the petroleum or crude or mineral oil;

(b) ~~a 2.65% of state severance tax on~~ the total gross taxable value of all natural gas produced ~~by the person,~~ plus the local government severance tax of 15.25% ~~on the total gross taxable value of all natural gas production produced by the person~~ other than interim production or new production, from each lease or unit; but in determining the amount of ~~the state severance tax and the local government severance tax,~~ there must be excluded from consideration all gas produced and used by the person during the year in connection with his operations in prospecting for, developing, and producing the gas or petroleum or crude or mineral oil; and there must also be excluded from consideration all gas, including carbon dioxide gas, recycled or reinjected into the ground;

(c) a 2.5% of state severance tax on the total gross taxable value of the incremental petroleum and other mineral or crude oil produced by the person, plus the local government severance tax of 4.2% 5% on production the total gross taxable value of the incremental petroleum and other mineral or crude oil produced by the person other than interim production and new production, from each lease or unit in a tertiary recovery project after July 1, 1985. For purposes of this section, a tertiary recovery project must meet the following requirements:

(i) the project must be approved as a tertiary recovery project by the department of revenue. The approval may be extended only after notice and hearing in accordance with Title 2, chapter 4.

(ii) the property to be affected by the project must be adequately delineated according to the specifications required by the department; and

(iii) the project must involve the application of one or more tertiary recovery methods that can reasonably be expected to result in an increase, determined by the department to be significant in light of all the facts and circumstances, in the amount of crude oil which may potentially be recovered. ~~For the purpose~~ purposes of this section, tertiary recovery methods include but are not limited to:

(A) miscible fluid displacement;

(B) steam drive injection;

(C) micellar/emulsion flooding;

(D) in situ combustion;

(E) polymer augmented water flooding;

(F) cyclic steam injection;

(G) alkaline or caustic flooding;

(H) carbon dioxide water flooding;

(I) immiscible carbon dioxide displacement; or

(J) any other method approved by the department as a tertiary recovery method.

(d) except as provided in 15-36-121(2), a 3% of state severance tax on the total gross taxable value of all the petroleum and other mineral or crude oil production produced by the person after the first 5 barrels, plus the local government severance tax of 4.2% on all production other than interim production and new production, produced by from a stripper well, as defined in 15-36-121, that produces more than 5 barrels a day during the period beginning April 1, 1989, and ending March 31, 1991-;

(e) a 5% local government severance tax on the total gross taxable value of all petroleum and other mineral or crude oil produced by the person other than interim and new production produced by a stripper well, as



defined in 15-36-121.

(2) For purposes of this section, the term "incremental petroleum and other mineral or crude oil" means the amount of oil, as determined by the department of revenue, to be in excess of what would have been produced by primary and secondary methods. The determination arrived at by the department must be made only after notice and hearing and shall specify through the life of a tertiary project, calendar year by calendar year, the combined amount of primary and secondary production that must be used to establish the incremental production from each lease or unit in a tertiary recovery project.

(3) (a) A local government severance tax is imposed on the gross value paid in cash or apportioned in kind to a nonworking interest owner by the operator or producer of extracted marketable petroleum, other mineral or crude oil, or natural gas subject to local government severance taxes imposed under this chapter. The local government severance tax on nonworking interest owners is computed at the following rates:

(i) 12.5% on the gross value paid in cash or apportioned in kind to a nonworking interest owner by the operator or producer of extracted marketable petroleum and other mineral or crude oil;

(ii) 15.25% on the gross value paid in cash or apportioned in kind to a nonworking interest owner by the operator or producer of extracted or marketable natural gas.

(b) The amounts paid or apportioned in kind to nonworking interest owners are exempt from the local government severance taxes imposed under 15-36-121(3) and (4) and under subsections (1)(a) through (1)(e) of this section.

~~(3)(4)~~ Nothing in this part may be construed as requiring laborers or employees hired or employed by any person to drill any oil or natural gas well or to work in or about any oil or natural gas well or prospect or explore for or do any work for the purpose of developing any petroleum, or other mineral or crude oil, or natural gas to pay the severance tax, nor may work done or the drilling of a well or wells for the purpose of prospecting or exploring for petroleum, or other mineral or crude oil, or natural gas or for the purpose of developing them be considered to be the engaging in or carrying on of the business. If, in the doing of any work, in the drilling of any oil or natural gas well, or in prospecting, exploring, or development work, any merchantable or marketable petroleum, or other mineral or crude oil, or natural gas in excess of the quantity required by the person for carrying on the operation is produced sufficient in quantity to justify the marketing of the petroleum, or other mineral or crude oil, or natural gas, the work, drilling, prospecting, exploring, or development work is considered to be the engaging in and carrying on of the business of producing petroleum, or other mineral or crude oil, or natural gas within this state within the meaning of this section.

~~(4)(5)~~ Every person required to pay the state or local government severance tax under this section shall pay the tax in full for his own account and for the account of each of the other owner or owners of the gross proceeds in value or in kind of all the marketable petroleum or other mineral or crude oil or natural gas extracted and produced, including owner or owners of working interest, royalty interest, overriding royalty

interest, carried working interest, net proceeds interest, production payments, and all other interest or interests owned or carved out of the total gross proceeds in value or in kind of the extracted marketable petroleum or other mineral or crude oil or natural gas, except that any of the interests that are owned by the federal, state, county, or municipal governments are exempt from taxation under this chapter. Unless otherwise provided in a contract or lease, the pro rata share of any royalty owner or owners will be deducted from any settlements under the lease or leases or division of proceeds orders or other contracts.

(6) For purposes of this section, the following definitions apply:

(a) "Gross taxable value" means the gross value of the product as determined in 15-36-103 less the gross value paid in cash or apportioned in kind to a nonworking interest owner by the operator or producer of extracted marketable petroleum, other mineral or crude oil, or natural gas.

(b) "Nonworking interest owner" means any interest owner who does not share in the development and operation costs of the lease or unit. (Subsection (1)(d) terminates on occurrence of contingency—sec. 7, Ch. 656, L. 1987.)"

Section 2. Section 15-36-112, MCA, is amended to read:

"15-36-112. Disposition of oil and gas state and local government severance taxes — calculation of unit value for local government severance tax. (1) Each year the department of revenue shall determine the amount of tax collected under this chapter from within each school district taxing unit.

(2) For purposes of the distribution of local government severance taxes collected under ~~15-36-101 this chapter~~, the department shall determine the unit value of oil and gas for each school-district taxing unit as follows:

(a) The unit value for petroleum and other mineral or crude oil for each district taxing unit is the quotient obtained by dividing the net proceeds taxes calculated on petroleum or mineral or crude oil produced in that district taxing unit in calendar year 1988 by the number of barrels of petroleum or other mineral or crude oil produced in that district taxing unit during 1988, excluding new and interim production.

(b) The unit value for natural gas is the quotient obtained by dividing the net proceeds taxes calculated on natural gas produced in that district taxing unit in calendar year 1988 by the number of cubic feet of natural gas produced in that district taxing unit during 1988, excluding new and interim production.

(3) The state and local government severance taxes collected under this chapter are allocated as follows:

(a) The local government severance tax is statutorily appropriated, as provided in 17-7-502, for allocation to the county for distribution as provided in subsection (4)(a)(ii);

(b) ~~Any amount not allocated to the county under subsection (3)(a)~~ The state severance tax is allocated to the state general fund.

(4) (a) For the purpose of distribution of the local government severance tax, the department shall adjust the unit value determined under this section according to the ratio that the local government severance taxes collected during the quarters to be distributed plus accumulated interest earned by the state and penalties and interest on delinquent local government severance taxes bears to the total liability for local government severance taxes for the quarters to be distributed. The taxes must be calculated and distributed as follows:

(i) By November 30 of each year, the department shall calculate and distribute to each eligible county the amount of local government severance tax, determined by multiplying unit value as adjusted in this subsection (4)(a) times the units of production on which the local government severance tax was owed during the calendar quarters ending March 31 and June 30 of the preceding calendar year.

(ii) By May 31 of each year, the department shall calculate and distribute to each eligible county the amount of local government severance tax, determined by multiplying unit value as adjusted in this subsection (4)(a) times the units of production on which the local government severance tax was owed during the 2 calendar quarters immediately following those quarters referred to in subsection (4)(a)(i).

(b) Any amount by which the total tax liability exceeds or is less than the total distributions determined in subsections (4)(a)(i) and (4)(a)(ii) must be calculated and distributed in the following manner:

(i) The excess amount or shortage must be divided by the total units of production to obtain the tax value per unit of production distribution determined for that period to obtain an excess or shortage percentage.

(ii) The tax value per unit of production must be multiplied by the units of production in that taxable period in each school district that had production in that period, and this amount must be added to or subtracted from the distribution to each respective district. The excess percentage must be multiplied by the distribution to each taxing unit, and this amount must be added to the distribution to each respective taxing unit.

(iii) The shortage percentage must be multiplied by the distribution to each taxing unit, and this amount must be subtracted from the distribution to each respective taxing unit.

(5) The county treasurer shall distribute the money received under subsection (3)(a) (4) to the taxing ~~jurisdictions~~ units that levied mills in fiscal year 1990 against calendar year 1988 production during fiscal year 1989 in the same manner that all other property tax proceeds were distributed during fiscal year ~~1989~~ 1990 in the taxing ~~jurisdiction~~ unit, except that no distribution may be made to a municipal taxing ~~jurisdiction~~ unit."

Section 3. Section 15-36-121, MCA, is amended to read:

"15-36-121. Exemption from state severance tax — imposition of local government severance tax. (1) It is the public policy of this state to promote a sufficient supply of natural gas to provide for the residents of this state, to lessen Montana's dependence on imported natural gas, and



to encourage the exploration for and development and production of natural gas, petroleum, and other mineral and crude oil within the state.

(2) All new production, as defined in 15-23-601, from a well during the 24 months immediately following the date of notification to the department of revenue that an oil well is flowing or being pumped or that a gas well has been connected to a gathering or distribution system is exempt from all of the state severance tax imposed by 15-36-101, provided the notification was made after March 31, 1987, and before July 1, 1991.

(3) All the natural gas produced from any well that has produced 60,000 cubic feet or less of natural gas a day for the calendar year prior to the current year shall be taxed as provided in this section. Production must be determined by dividing the amount of production from a lease or unitized area for the year prior to the current calendar year by the number of producing wells in the lease or unitized area and by dividing the resulting quotient by 365. The first 30,000 cubic feet of average daily production per well is exempt from all of the state severance tax imposed by 15-36-101. The first 30,000 cubic feet of average daily production per well is subject to a local government severance tax of 10%. Everything over 30,000 cubic feet of gas produced is taxed at 1.59% plus a local government severance tax of ~~7.625%~~ 10%.

(4) The first 5 barrels of average daily production from a stripper well are exempt from all of the state severance tax imposed by 15-36-101, ~~except but not from~~ the local government severance tax.

(5) For the purposes of this section, "stripper well" means a well that produces less than 10 barrels per day, determined by dividing the amount of production from a lease or unitized area for the year prior to the current calendar year by the number of producing wells in the lease or unitized area, and by dividing the resulting quotient by 365.

(6) Notwithstanding the provisions of subsections (2) through (4), all reporting requirements under the state severance tax remain in effect. (Subsections (2) and (4) terminate on occurrence of contingency—sec. 7, Ch. 656, L. 1987.)"

Section 4. Section 20-9-366, MCA, is amended to read:

"20-9-366. (Effective July 1, 1990) Definitions. As used in 20-9-366 through 20-9-369, the following definitions apply:

(1) "County mill value per elementary ANB" or "county mill value per high school ANB" means the sum of the current taxable valuation of all property in the county plus the taxable value of oil and gas net proceeds determined under 15-23-607(4) for production occurring after March 31, 1990, plus the taxable value of coal gross proceeds determined under 15-23-703(3) plus all the taxable value of ~~netax~~ nonlevy revenue for the support of schools, other than Public Law 81-874 funds, divided by 1,000, with the quotient divided by the total county elementary ANB count or the total county high school ANB count used to calculate the elementary school districts' and high school districts' current year foundation program amounts. The taxable value of nonlevy revenue for the purpose of computing guaranteed tax base aid for schools is the amount of ~~netax~~ nonlevy revenue received by a district in the previous year, including for fiscal year 1991 the revenue received in fiscal year 1990 from the net



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~~proceeds taxation of oil and natural gas and including for fiscal year 1992 and thereafter the local government severance tax, divided by the number of mills levied by the district in the previous year, multiplied by 1,000, divided by 1,000, with the quotient divided by the total county elementary ANB count or the total county high school ANB count used to calculate the elementary school districts' and high school districts' current year foundation program amounts.~~

(2) "District mill value per ANB" means the current taxable valuation of all property in the district plus the taxable value of oil and gas net proceeds determined under 15-23-607(4) for production occurring after March 31, 1990, plus the taxable value of coal gross proceeds determined under 15-23-703(3) plus all the taxable value of ~~netax~~ nonlevy revenue for the support of schools, other than Public Law 81-874 funds, divided by 1,000, with the quotient divided by the ANB count of the district used to calculate the district's current year foundation program schedule amount. The taxable value of nonlevy revenue for the purpose of computing guaranteed tax base aid for schools is the amount of ~~netax~~ nonlevy revenue received by a district in the previous year, including for fiscal year 1991 the revenue received in fiscal year 1990 from the net proceeds taxation of oil and natural gas and including for fiscal year 1992 and thereafter the local government severance tax, divided by the number of mills levied by the district in the previous year, multiplied by 1,000, divided by 1,000, with the quotient divided by the ANB count of the district used to calculate the district's current year foundation program schedule amount.

(3) "Guaranteed overschedule general fund budget" means that portion of a district's general fund budget in excess of the foundation program amount for the district, as provided in 20-9-316 through 20-9-321, but not exceeding 135% of the district's foundation program amount, and which excess is authorized under the provisions of 20-9-145 and 20-9-353.

(4) "Statewide mill value per elementary ANB" or "statewide mill value per high school ANB" means the sum of the current taxable valuation of all property in the state plus the taxable value of oil and gas net proceeds determined under 15-23-607(4) for production occurring after March 31, 1990, plus the taxable value of coal gross proceeds determined under 15-23-703(3) plus all the taxable value of ~~netax~~ nonlevy revenue for the support of schools, other than Public Law 81-874 funds, divided by 1,000, with the quotient divided by the total state elementary ANB count or the total state high school ANB count used to calculate the elementary school districts' and high school districts' current year foundation program amounts. The taxable value of nonlevy revenue for the purpose of computing guaranteed tax base aid for schools is the amount of ~~netax~~ nonlevy revenue received by a district in the previous year, including for fiscal year 1991 the revenue received in fiscal year 1990 from the net proceeds taxation of oil and natural gas and including for fiscal year 1992 and thereafter the local government severance tax, divided by the number of mills levied by the district in the previous year, multiplied by 1,000, divided by 1,000, with the quotient divided by the total state elementary ANB count or the total state high school ANB count used to calculate the elementary school districts' and high school districts' current year foundation program amounts."

**NEW SECTION.** Section 5. Revenue oversight study — reports by department of revenue. (1) The revenue oversight committee shall study

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the new methods of taxing coal, oil, and natural gas production that were mandated by House Bill No. 28, Special Laws of June 1989, and amended by [this act]. The committee shall report its findings to the 52nd legislature.

(2) The department of revenue shall report to the 52nd legislature and to the 53rd legislature on any conversion of nonworking interest owner taxpayer status to operator taxpayer status.

NEW SECTION. Section 6. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 7. Effective date. [This act] is effective on passage and approval.

NEW SECTION. Section 8. Retroactive applicability. [Sections 1 and 3] apply retroactively, within the meaning of 1-2-109, to all local government severance taxes on oil and natural gas produced after December 31, 1988."

And that this Conference Committee Report be adopted.

For the Senate:  
Gage, Chairman  
Crippen  
Mazurek

For the House:  
Schye  
Kadas  
Patterson

### MESSAGES FROM THE SENATE

May 25, 1990

John Vincent, Speaker  
House of Representatives  
State Capitol  
Helena, MT 59620

Dear Mr. Speaker:

I am directed by the Senate to inform the House of Representatives that the following House Bill was this day, May 25, 1990, read three several times, and concurred in, title and history agreed to, and the said bill is herewith returned to the House.

House Bill No. 6, introduced by Representative Bardanouve

Respectfully,

JOHN W. LARSON  
Secretary of the Senate

May 25, 1990

## SECOND READING OF BILLS (COMMITTEE OF THE WHOLE)

Speaker Pro Tempore Addy moved the House resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Representative Menahan in the Chair.

Speaker Vincent: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

**SB 1** - Representative Schye moved the free conference committee report to SB 1 be adopted. Report adopted as follows:

Ayes: Aafedt, Addy, Bardanouve, Blotkamp, Boharski, Bradley, D. Brown, J. Brown, Cocchiarella, Cody, Cohen, Compton, Connelly, Daily, Darko, Davis, DeMars, Driscoll, Eudaily, Gervais, Glaser, Gould, Grady, Guthrie, Harper, Harrington, Hayne, Iverson, Johnson, Kadas, Kilpatrick, Kimberley, Knapp, McCormick, McDonough, Menahan, Moore, R. Nelson, Nisbet, O'Connell, Owens, Patterson, Pavlovich, Peterson, Quilici, Ream, Rice, Russell, Schye, Simpkins, Smith, Squires, Stickney, Strizich, Tunby, Wallin, Westlake, Mr. Speaker.

Total 58

Noes: Bachini, Brooke, Campbell, Clark, Cobb, Cooper, DeBruycker, Elliott, Ellison, Gilbert, Good, Grinde, Hansen, Hanson, Hoffman, Kasten, Keller, Koehnke, Lee, Mercer, L. Nelson, T. Nelson, O'Keefe, Peck, Phillips, Ramirez, Raney, Rehberg, Roth, Simon, Spaeth, Spring, Stang, Stepler, Swift, Swysgood, Thoft, Thomas, Vogel, Whalen, Wyatt, Zook.

Total 42

Paired: Cody, Harrington, Kadas, Moore, Peterson, Russell, Ayes; Gilbert, Good, Grinde, O'Keefe, Rehberg, Roth, Noes.

Excused: None.

Total 0

Absent or not voting: None.

Total 0

Representative Harper moved the committee rise and report. Motion carried. Committee arose. House resumed. Speaker Vincent in the Chair. Chairman Menahan moved the adoption of the committee report. Report adopted. (57-36)

## MESSAGES FROM THE SENATE

May 25, 1990

John Vincent, Speaker  
House of Representatives  
State Capitol  
Helena, MT 59620

Dear Mr. Speaker:



I am directed by the Senate to inform the House of Representatives that the Free Conference Committee Report No. 1, on Senate Bill No. 1, was this day adopted on third reading by the Senate.

Respectfully,

JOHN W. LARSON  
Secretary of the Senate

### THIRD READING OF BILLS

The following bill having been read three several times, title and history agreed to, was disposed of in the following manner:

**SB 1**, free conference committee report, adopted as follows:

Ayes: Aafedt, Addy, Bardanouve, Blotkamp, Boharski, Bradley, D. Brown, J. Brown, Cocchiarella, Cody, Cohen, Compton, Connelly, Daily, Darko, Davis, DeMars, Eudaily, Gervais, Glaser, Gould, Grady, Guthrie, Harper, Harrington, Hayne, Iverson, Johnson, Kadas, Kilpatrick, Kimberley, Knapp, McCormick, McDonough, Menahan, Moore, R. Nelson, Nisbet, O'Connell, Patterson, Pavlovich, Peterson, Quilici, Ream, Rice, Russell, Schye, Simpkins, Smith, Squires, Stickney, Strizich, Tunby, Wallin, Westlake, Mr. Speaker.  
Total 56

Noes: Bachini, Brooke, Campbell, Clark, Cobb, Cooper, DeBruycker, Driscoll, Elliott, Ellison, Gilbert, Good, Grinde, Hansen, Hanson, Hoffman, Kasten, Keller, Koehnke, Lee, Mercer, L. Nelson, T. Nelson, O'Keefe, Owens, Peck, Phillips, Ramirez, Raney, Rehberg, Roth, Simon, Spaeth, Spring, Stang, Stepler, Swift, Swysgood, Thoft, Thomas, Vogel, Whalen, Wyatt, Zook.  
Total 44

Paired: Cody, Harrington, Kadas, Moore, Peterson, Russell, Ayes; Gilbert, Good, Grinde, O'Keefe, Rehberg, Roth, Noes.

Excused: None.  
Total 0

Absent or not voting: None.  
Total 0

Representative Harper moved the House recess until 7:30 p.m. Motion carried.

House recessed at 5:10 p.m.

House reconvened at 8:40 p.m. Speaker Vincent in the Chair.

Representatives Gould and Thoft excused at this time.

### REPORTS OF STANDING COMMITTEES

BILLS (Menahan, Chairman):  
Signed by the Speaker at 8:00 p.m., 5/25/90: SB 1.

5/25/90



## REPORTS OF SELECT COMMITTEES

Free Conference Committee  
on House Bill 2  
Report No. 1, May 25, 1990

Mr. President and Mr. Speaker:

We, your Free Conference Committee on House Bill 2, met and considered:

We recommend that House Bill 2 (reference copy — salmon) be amended as follows:

1. Title, page 1, line 23.

Following: "2020;"

Strike: remainder of line 23 through "DATE" on page 2, line 13

Insert: "PROVIDING MONEY FOR INITIAL OPERATING EXPENSES FOR CLAIMS FOR INJURIES RESULTING FROM ACCIDENTS THAT OCCUR ON OR AFTER JULY 1, 1990; AUTHORIZING LOANS FROM RESERVES OF THE STATE FUND FROM PREMIUMS ATTRIBUTABLE TO WAGES PAYABLE ON OR AFTER JULY 1, 1990, FOR PAYMENT OF CLAIMS FOR INJURIES RESULTING FROM ACCIDENTS THAT OCCURRED BEFORE JULY 1, 1990; ESTABLISHING SEPARATE FUNDING AND ACCOUNTS FOR CLAIMS REPRESENTED BY THE UNFUNDED LIABILITY AND CLAIMS REPRESENTED BY NEW BUSINESS; PROVIDING FOR INCREASED LEGISLATIVE OVERSIGHT OF THE STATE FUND; CLARIFYING THE STATE FUND'S DUTIES; PROVIDING THAT THE STATE FUND MAY NOT ISSUE BONDS; ENSURING COMPLIANCE WITH THE MANDATE THAT THE STATE FUND SET PREMIUMS FOR NEW BUSINESS AT A LEVEL SUFFICIENT TO ENSURE SOLVENCY; REMOVING THE TERMINATION OF THE WORKERS' COMPENSATION PAYROLL TAX; PROVIDING A SPECIAL METHOD OF OFFERING NEGOTIATED SETTLEMENTS FOR CLAIMS ARISING PRIOR TO JULY 1, 1990; PROVIDING FOR COORDINATION OF THIS ACT WITH THE OCCUPATIONAL DISEASE ACT OF MONTANA; ALLOWING THE STATE FUND TO REQUEST PROPOSALS FOR THE SETTLEMENTS OF CLAIMS ARISING PRIOR TO JULY 1, 1990; APPROPRIATING MONEY TO THE DEPARTMENT OF REVENUE FOR ADMINISTERING COLLECTION OF THE PAYROLL TAX; AMENDING SECTIONS 33-1-102, 39-71-116, 39-71-2311, 39-71-2313 THROUGH 39-71-2316, 39-71-2321, 39-71-2323, 39-71-2501 THROUGH 39-71-2504, MCA; AMENDING SECTION 10, CHAPTER 664, LAWS OF 1987; AND PROVIDING EFFECTIVE DATES AND AN APPLICABILITY DATE"

2. Page 3, line 4 through page 7, line 15.

Strike: everything after the enacting clause

Insert: "NEW SECTION. Section 1. Purpose of separation of state fund liability as of July 1, 1990, and of separate funding of claims before and on or after that date. (1) An unfunded liability exists in the state fund. It has existed since at least the mid-1980s and has grown each year. There have been numerous attempts to solve the problem by legislation and other methods. These attempts have alleviated the problem somewhat, but the problem has not been solved.

(2) The legislature has determined that it is necessary to the public

welfare to make workers' compensation insurance available to all employers through the state fund as the insurer of last resort. In making this insurance available, the state fund has incurred the unfunded liability. The legislature has determined that the most cost-effective and efficient way to provide a source of funding for and to ensure payment of the unfunded liability and the best way to administer the unfunded liability is to: (a) separate the liability of the state fund on the basis of whether a claim is for an injury resulting from an accident that occurred before July 1, 1990, or an accident that occurs on or after that date;

(b) extend the payroll tax imposed by 39-71-2503 and dedicate the tax money first to the repayment of loans given under [section 4] and then to the direct payment of the costs of administering and paying claims for injuries from accidents that occurred before July 1, 1990.

(3) The legislature further determines that in order to prevent the creation of a new unfunded liability with respect to claims for injuries for accidents that occur on or after July 1, 1990, certain duties of the state fund should be clarified and legislative oversight of the state fund should be increased.

**NEW SECTION.** Section 2. Separate payment structure and sources for claims for injuries resulting from accidents that occurred before July 1, 1990, and on or after July 1, 1990 — spending limit. (1) Premiums paid to the state fund based upon wages payable before July 1, 1990, may be used only to administer and pay claims for injuries resulting from accidents that occurred before July 1, 1990. Except as provided in [section 4] and 39-71-2316(9), premiums paid to the state fund based upon wages payable on or after July 1, 1990, may be used only to administer and pay claims for injuries resulting from accidents that occur on or after July 1, 1990.

(2) The state fund shall:

(a) determine the cost of administering and paying claims for injuries resulting from accidents that occurred before July 1, 1990, and separately determine the cost of administering and paying claims for injuries resulting from accidents that occur on or after July 1, 1990;

(b) keep adequate and separate accounts of the costs determined under subsection (2)(a); and

(c) fund administrative expenses and benefit payments for claims for injuries resulting from accidents that occurred before July 1, 1990, and claims for injuries resulting from accidents that occur on or after July 1, 1990, separately from the sources provided by law.

(3) The state fund may not spend more than \$3 million a year to administer claims for injuries resulting from accidents that occurred before July 1, 1990.

**NEW SECTION.** Section 3. Initial operating expenses for claims for injuries resulting from accidents that occur on or after July 1, 1990. During the fiscal year beginning July 1, 1990, the state fund shall transfer \$12 million from money deposited under 39-71-2321 in the state fund before July 1, 1990, to the account created by 39-71-2321 for the administration and payment of claims for injuries resulting from

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accidents that occur on or after July 1, 1990.

**NEW SECTION.** Section 4. Use of payroll tax proceeds — loans. Taxes collected under 39-71-2503 may be used only to administer and pay claims for injuries resulting from accidents that occurred before July 1, 1990, including the cost of repaying loans given under this section. If the state fund determines that, for the next 1 or more years following the date of the determination, the tax revenue, together with other funds in the account required by 39-71-2321 for claims for injuries resulting from accidents that occurred before July 1, 1990, will be insufficient to administer and pay those claims, the state fund, through its board of directors, may advise the board of investments that additional funding is necessary. The board of investments may loan, from reserves accumulated from premiums paid to the state fund based upon wages payable on or after July 1, 1990, amounts necessary for payment of claims for injuries resulting from accidents that occurred before July 1, 1990. The loans must bear interest at 7 1/2%.

**NEW SECTION.** Section 5. Legislative audit of state fund. The legislative auditor shall annually conduct or have conducted a financial and compliance audit of the state fund, including its operations relating to claims for injuries resulting from accidents that occurred before July 1, 1990. The audit must include evaluations of the claims reservation process, the amounts reserved, and the current report of the state fund's actuary. The evaluations may be conducted by persons appointed under 5-13-305. Audit and evaluation costs are an expense of and must be paid by the state fund and must be allocated between those claims for injuries resulting from accidents that occurred before July 1, 1990, and those claims for injuries resulting from accidents that occur on or after that date.

Section 6. Section 39-71-116, MCA, is amended to read:

"39-71-116. Definitions. Unless the context otherwise requires, words and phrases employed in this chapter have the following meanings:

(1) "Administer and pay" includes all actions by the state fund under the Workers' Compensation Act and the Occupational Disease Act of Montana necessary to the investigation, review, and settlement of claims; payment of benefits; setting of reserves; furnishing of services and facilities; and utilization of actuarial, audit, accounting, vocational rehabilitation, and legal services.

~~(1)~~(2) "Average weekly wage" means the mean weekly earnings of all employees under covered employment, as defined and established annually by the Montana department of labor and industry. It is established at the nearest whole dollar number and must be adopted by the department prior to July 1 of each year.

~~(2)~~(3) "Beneficiary" means:

(a) a surviving spouse living with or legally entitled to be supported by the deceased at the time of injury;

(b) an unmarried child under the age of 18 years;

(c) an unmarried child under the age of 22 years who is a full-time student in an accredited school or is enrolled in an accredited apprenticeship



program;

(d) an invalid child over the age of 18 years who is dependent upon the decedent for support at the time of injury;

(e) a parent who is dependent upon the decedent for support at the time of the injury (however, such a parent is a beneficiary only when no beneficiary, as defined in subsections ~~(2)(a)~~ ~~(3)(a)~~ through ~~(2)(d)~~ ~~(3)(d)~~ of this section, exists); and

(f) a brother or sister under the age of 18 years if dependent upon the decedent for support at the time of the injury (however, such a brother or sister is a beneficiary only until the age of 18 years and only when no beneficiary, as defined in subsections ~~(2)(a)~~ ~~(3)(a)~~ through ~~(2)(e)~~ ~~(3)(e)~~ of this section, exists).

~~(3)(4)~~ "Casual employment" means employment not in the usual course of trade, business, profession, or occupation of the employer.

~~(4)(5)~~ "Child" includes a posthumous child, a dependent stepchild, and a child legally adopted prior to the injury.

~~(5)(6)~~ "Days" means calendar days, unless otherwise specified.

~~(6)(7)~~ "Department" means the department of labor and industry.

~~(7)(8)~~ "Fiscal year" means the period of time between July 1 and the succeeding June 30.

~~(8)(9)~~ "Insurer" means an employer bound by compensation plan No. 1, an insurance company transacting business under compensation plan No. 2, the state fund under compensation plan No. 3, or the uninsured employers' fund provided for in part 5 of this chapter.

~~(9)(10)~~ "Invalid" means one who is physically or mentally incapacitated.

~~(10)(11)~~ "Maximum healing" means the status reached when a worker is as far restored medically as the permanent character of the work-related injury will permit.

~~(11)(12)~~ "Order" means any decision, rule, direction, requirement, or standard of the department or any other determination arrived at or decision made by the department.

~~(12)(13)~~ "Payroll", "annual payroll", or "annual payroll for the preceding year" means the average annual payroll of the employer for the preceding calendar year or, if the employer shall not have operated a sufficient or any length of time during such calendar year, 12 times the average monthly payroll for the current year. However, an estimate may be made by the department for any employer starting in business if no average payrolls are available. This estimate is to be adjusted by additional payment by the employer or refund by the department, as the case may actually be, on December 31 of such current year. An employer's payroll must be computed by calculating all wages, as defined in 39-71-123, that are paid by an employer.

~~(13)(14)~~ "Permanent partial disability" means a condition, after a worker



has reached maximum healing, in which a worker:

(a) has a medically determined physical restriction as a result of an injury as defined in 39-71-119; and

(b) is able to return to work in the worker's job pool pursuant to one of the options set forth in 39-71-1012 but suffers impairment or partial wage loss, or both.

(14)(15) "Permanent total disability" means a condition resulting from injury as defined in this chapter, after a worker reaches maximum healing, in which a worker is unable to return to work in the worker's job pool after exhausting all options set forth in 39-71-1012.

(15)(16) The term "physician" includes "surgeon" and in either case means one authorized by law to practice his profession in this state.

(16)(17) The "plant of the employer" includes the place of business of a third person while the employer has access to or control over such place of business for the purpose of carrying on his usual trade, business, or occupation.

(17)(18) "Public corporation" means the state or any county, municipal corporation, school district, city, city under commission form of government or special charter, town, or village.

(18)(19) "Reasonably safe place to work" means that the place of employment has been made as free from danger to the life or safety of the employee as the nature of the employment will reasonably permit.

(19)(20) "Reasonably safe tools and appliances" are such tools and appliances as are adapted to and are reasonably safe for use for the particular purpose for which they are furnished.

(20)(21) "Temporary total disability" means a condition resulting from an injury as defined in this chapter that results in total loss of wages and exists until the injured worker reaches maximum healing.

(21)(22) "Year", unless otherwise specified, means calendar year."

Section 7. Section 39-71-2311, MCA, is amended to read:

"39-71-2311. Intent and purpose of plan. It is the intent and purpose of the state fund to allow employers the option to insure their liability for workers' compensation and occupational disease coverage with a mutual insurance fund. The state fund is required to insure any employer in this state requesting coverage, and it may not refuse coverage for an employer unless an assigned risk plan is established under 39-71-431 and is in effect. The state fund must be neither more nor less than self-supporting. Premium rates must be set at least annually at a level sufficient to fund ensure the adequate funding of the insurance program, including the costs of administration, benefits, and adequate reserves, during and at the end of the period for which the rates will be in effect. In determining premium rates, the state fund shall make every effort to adequately predict future costs. When the costs of a factor influencing rates are unclear and difficult to predict, the state fund shall use a prediction calculated to be more than likely to cover those costs rather than less than likely to cover those costs.

Unnecessary surpluses that are created by the imposition of premiums found to have been set higher than necessary because of a high estimate of the cost of a factor or factors may be refunded by the declaration of a dividend as provided in this part. For the purpose of keeping the state fund solvent, it must implement variable pricing levels within individual rate classifications to reward an employer with a good safety record and penalize an employer with a poor safety record."

Section 8. Section 39-71-2313, MCA, is amended to read:

"39-71-2313. State compensation mutual insurance fund created. There is a state compensation mutual insurance fund known as the state fund that is a nonprofit, independent public corporation established for the purpose of allowing an option for employers to insure their liability for workers' compensation and occupational disease coverage under this chapter. ~~The state fund exists as a domestic mutual insurer as defined in 33-3-102.~~"

Section 9. Section 39-71-2314, MCA, is amended to read:

"39-71-2314. State fund ~~a mutual insurance carrier~~ — assigned risk plan. (1) ~~The state fund is a domestic mutual insurer controlled by the laws relating to the regulation of domestic mutual insurers in this state. However, the formation, incorporation, bylaws, and bonding requirements set forth in Title 33, chapter 3, do not apply to the state fund. The state fund is not a member insurer for the purposes of the insurance guaranty association established pursuant to Title 33, chapter 10, part 1.~~

~~(2) The commissioner of insurance may not terminate the operations of the state fund based on insolvency due to the unfunded liability that is recognized to exist on the date of passage of this part.~~

~~(3)(1) If an assigned risk plan is established and administered pursuant to 39-71-431, the state fund is subject to the premium tax liability for insurers as provided in 33-2-705 based on earned premium and paid on revenue from the previous fiscal year.~~

(2) The state fund is subject to laws that generally apply to state agencies, including but not limited to Title 2, chapters 2, 3, 4 (except as provided in 39-71-2316), and 6, and Title 5, chapter 13. The state fund is not exempt from a law that applies to state agencies unless that law specifically exempts the state fund by name and clearly states that it is exempt from that law."

Section 10. Section 39-71-2315, MCA, is amended to read:

"39-71-2315. Management of state fund — powers and duties of the board.

(1) The management and control of the state fund is vested solely in the board.

(2) The board is vested with full power, authority, and jurisdiction over the state fund. The board may perform all acts necessary or convenient in the exercise of any power, authority, or jurisdiction over the state fund, either in the administration of the state fund or in connection with the insurance business to be carried on under the provisions of this part, as

fully and completely as the governing body of a private mutual insurance carrier, in order to fulfill the objectives and intent of this part. Bonds may not be issued by the board, the state fund, or the executive director."

Section 11. Section 39-71-2316, MCA, is amended to read:

"39-71-2316. Powers of the state fund — rulemaking. For the purposes of carrying out its functions, the state fund may:

(1) insure any employer for workers' compensation and occupational disease liability as the coverage is required by the laws of this state and, in connection with the coverage, provide employers' liability insurance. The state fund may charge a minimum yearly premium to cover its administrative costs for coverage of a small employer.

(2) sue and be sued;

(3) adopt, amend, and repeal rules relating to the conduct of its business;

(4) except as provided in [section 21], enter into contracts relating to the administration of the state fund, including claims management, servicing, and payment;

(5) collect and disburse money received;

(6) adopt classifications and charge premiums for the classifications so that the state fund will be neither more nor less than self-supporting. Premium rates for classifications may only be adopted and changed using a process, a procedure, formulas, and factors set forth in rules adopted under Title 2, chapter 4, parts 2 through 4. After such rules have been adopted, the state fund need not follow the rulemaking provisions of Title 2, chapter 4, when changing classifications and premium rates. The contested case rights and provisions of Title 2, chapter 4, do not apply to an employer's classification or premium rate. The state fund must belong to the national council on compensation insurance and shall use the classifications of employment adopted by the national council and corresponding rates as a basis for setting its own rates.

(7) pay the amounts determined due under a policy of insurance issued by the state fund;

(8) hire personnel;

(9) declare dividends if there is an excess of assets over liabilities. However, dividends may not be paid until ~~the unfunded liability of the state fund is eliminated~~ and adequate actuarially determined reserves ~~are determined set aside. If those reserves have been set aside, money that can be declared as a dividend must be transferred to the account created by 39-71-2321 for claims for injuries resulting from accidents that occurred before July 1, 1990, and used for the purposes of that account. After all claims funded by that account have been paid, dividends may be declared and paid to insureds.~~

(10) perform all functions and exercise all powers of a domestic mutual insurer that are necessary, appropriate, or convenient for the



administration of the state fund.”

Section 12. Section 39-71-2321, MCA, is amended to read:

“39-71-2321. What to be deposited in state fund. (1) All premiums, penalties, recoveries by subrogation, interest earned upon money belonging to the state fund, and securities acquired by or through use of money must be deposited in the state fund. They must be separated into two accounts based upon whether they relate to claims for injuries resulting from accidents that occurred before July 1, 1990, or claims for injuries resulting from accidents that occur on or after that date.

(2) The loan proceeds given to the state fund under [section 4] must be deposited in the account for claims for injuries resulting from accidents that occurred before July 1, 1990.”

Section 13. Section 39-71-2323, MCA, is amended to read:

“39-71-2323. Surplus in state fund — payment of dividends. If Subject to the provisions of 39-71-2316(9), if at the end of any fiscal year there exists in the state fund account created by 39-71-2321 for claims for injuries resulting from accidents that occur on or after July 1, 1990, an excess of assets over liabilities, including necessary reserves and a reasonable surplus, such liabilities to include necessary reserves, which and if the excess may be divided refunded safely, then the state fund may declare a dividend, in the manner as the The rules of the state fund must prescribe the manner of payment to those employers who have paid premiums into the state fund in excess of liabilities chargeable to them in the fund for that year. In determining the amount or proportion of the balance to which the employer is entitled as dividends, the state fund shall give consideration to the prior paid premiums and accident experience of each individual employer during the dividend year.”

Section 14. Section 39-71-2501, MCA, is amended to read:

“39-71-2501. Definitions. As used in this part, the following definitions apply:

(1) “Department” means the department of ~~labor and industry~~ revenue provided for in ~~2-15-1701~~ 2-15-1301.

(2) “Employer” has the meaning set forth in 39-71-117.

(3) “Payroll” means the payroll of an employer for each of the calendar quarters ending March 31, June 30, September 30, and December 31, for all employments covered under 39-71-401.

(4) “State fund” means the state compensation mutual insurance fund.

(5) “Tax” means the workers’ compensation payroll tax provided for in 39-71-2503.

(6) “Tax account” means the workers’ compensation tax account created by 39-71-2504.”

Section 15. Section 39-71-2502, MCA, is amended to read:



May 25, 1990

"39-71-2502. Findings and purpose. (1) Based on current liabilities and actuarial analysis, an unfunded liability presently exists in the state fund with regard to claims for injuries resulting from accidents that occurred before July 1, 1990, and is projected to it may increase. While legislative action is required to correct the causes of the unfunded liability, those actions will not provide sufficient funds to permit the state fund to pay its existing liabilities and obligations in a timely manner from premium and investment income available to the state fund. Therefore, it is necessary to provide a source of funding for the unfunded liability in addition to premium and investment income.

(2) The police power of the state extends to all great public needs. The state, in the exercise of its police power, has determined that it is greatly and immediately necessary to the public welfare to make workers' compensation insurance available to all employers through the state fund as the insurer of last resort. In making this insurance available, the state fund has incurred the unfunded liability described in subsection (1). The burden of this unfunded liability should not be borne solely by those employers who have insured with the state fund because the availability of insurance to all employers through the state fund has benefited all employers who have workers' compensation coverage. Therefore, all employers who have employments covered by the workers' compensation laws should share in the cost of the unfunded liability.

(3) The purpose of this part is to provide a supplemental source of financing for the unfunded liability."

Section 16. Section 39-71-2503, MCA, is amended to read:

"39-71-2503. Workers' compensation payroll tax — ~~penalty.~~ (1) (a) There is imposed on each employer a workers' compensation payroll tax in an amount equal to ~~0.3%~~ 0.28% of the employer's payroll in the preceding calendar quarter for all employments covered under 39-71-401, ~~except that if an employer is subject to 15-30-204(2), the tax is an amount equal to 0.28% of the employer's payroll in the preceding week.~~ This payroll tax must be used to reduce the unfunded liability in the state fund incurred for claims for injuries resulting from accidents that occurred before July 1, 1990. The department must report past and projected future tax proceeds to the legislature, which shall consider the report and determine the tax rate necessary for repayment of loans with interest.

~~(b) The tax is due and payable following the end of each calendar quarter, commencing with the quarter ending September 30, 1987.~~

~~(c) The tax must be paid to and collected by the department. The department shall prepare appropriate returns to be filed by each employer or insurer with the payment of the tax.~~

~~(d)(b)~~ Each employer shall maintain the records the department requires concerning the employer's payroll. The records are subject to inspection by the department and its employees and agents during regular business hours.

~~(e) Taxes not paid when due bear interest at the rate of 1% a month. The employer shall also pay a penalty equal to 10% of the amount of the delinquent tax.~~

(2) All collections of the tax are appropriated to and must be deposited as received in the tax account. The tax is in addition to any other tax or fee assessed against employers subject to the tax.

(3) (a) On or before the 20th day of May, August, November, and February, each employer subject to the tax shall file a return in the form and containing the information required by the department and, except as provided in subsection (3)(b), pay the amount of tax required by this section to be paid on the employer's payroll for the preceding calendar quarter.

(b) An employer subject to 15-30-204(2) shall remit to the department a weekly payment with its weekly withholding tax payment in the amount required by subsection (1)(a).

(c) A tax payment required by subsection (1)(a) must be made with the return filed pursuant to 15-30-204. The department shall first credit a payment to the liability under 15-30-202 and credit any remainder to the workers' compensation tax account provided in 39-71-2504.

(4) An employer's officer or employee with the duty to collect, account for, and pay to the department the amounts due under this section who willfully fails to pay an amount is liable to the state for the unpaid amount and any penalty and interest relating to that amount.

(5) Returns and remittances under subsection (3) and any information obtained by the department during an audit are subject to the provisions of 15-30-303, but the department may disclose the information to the department of labor and industry under circumstances and conditions that ensure the continued confidentiality of the information.

(6) The department of labor and industry and the state fund shall, on [the effective date of this act] or as soon after that date as possible, give the department a list of all employers having coverage under any plan administered or regulated by the department of labor and industry and the state fund. After the lists have been given to the department, the department of labor and industry and the state fund shall update the lists weekly. The department of labor and industry and the state fund shall provide the department with access to their computer data bases and paper files and records for the purpose of the department's administration of the tax imposed by this section.

~~(3)(7) Sections 15-35-112 through 15-35-114, 15-35-121, and 15-35-122. The provisions of Title 15, chapter 30, not in conflict with the provisions of this part regarding administration, remedies, enforcement, collections, hearings, interest, deficiency assessments, credits for overpayment, statute of limitations, penalties, and department rulemaking authority apply to the tax, to employers, and to the department."~~

Section 17. Section 39-71-2504, MCA, is amended to read:

"39-71-2504. Workers' compensation tax account. (1) There is a workers' compensation tax account in the state special revenue fund. The workers' compensation tax account consists of a tax account and a workers' compensation loan repayment account.

(2) All collections of the tax, interest and penalties on the tax, and revenue

appropriated to the workers' compensation tax account under section 11, Chapter 9, Special Laws of June 1989, must be deposited in the workers' compensation tax account. All such money deposited in the workers' compensation tax account must be credited to the workers' compensation loan repayment account to the extent necessary to pay the principal of and interest due on workers' compensation loans issued under [section 4]. The balance in the workers' compensation loan repayment account must be credited to the tax account within the workers' compensation tax account and ~~are~~ is statutorily appropriated, as provided in 17-7-502, to the ~~department~~ state fund to be used to reduce the unfunded liability in the state fund incurred for claims for injuries resulting from accidents that occurred before July 1, 1990."

NEW SECTION. Section 18. Coordination with Occupational Disease Act of Montana. For purposes of [this act] and the administration of Title 39, chapter 72, a reference in [this act] to an injury resulting from an accident or to a claim for an injury resulting from an accident includes a disablement as defined in 39-72-102(4).

NEW SECTION. Section 19. Transfer of accounts receivable. The department of revenue is not responsible for the collection of an account receivable it takes over from the department of labor and industry on [the effective date of this section] if the account is more than 720 days past due or is an account of an employer that is no longer in business. Such accounts must be transferred to the state auditor for collection.

NEW SECTION. Section 20. Settlement of fixed benefit claims that arose prior to July 1, 1990. (1) If funds are available, the state fund may offer a negotiated claim settlement to each person who has a claim that arose before July 1, 1990, for which the state fund has accepted liability, other than liability for medical benefits, and has fixed benefits. Each settlement offer must contain a provision granting the state fund a full and unconditional release of liability, other than liability for medical benefits, in exchange for accepting the negotiated claim settlement. The claimant shall accept a negotiated claim settlement in writing before November 1, 1990, or the settlement offer is void. The negotiated claim settlement may be paid in a fixed amount without any justification by the claimant.

(2) If the negotiated claim settlement offer made pursuant to subsection (1) is not accepted, the lump-sum law in effect on the date of the injury applies.

NEW SECTION. Section 21. Request for proposals for claim settlement. The state fund may prepare a request for proposals for contracting with private claims adjusters for settling the claims of persons whose benefits have not been determined under a claim that arose before July 1, 1990. The request for proposals may be based upon a dollar amount of unsettled claims or upon a percentage of claims for which benefits have not been determined. The state fund may not enter into a contract based upon a proposal until it has reported the results of the proposals to the 52nd legislature and has received legislative authorization to enter into a contract based upon a proposal.

Section 22. Section 33-1-102, MCA, is amended to read:

"33-1-102. Compliance required — exceptions — health service



corporations — health maintenance organizations — governmental insurance programs. (1) No person shall transact a business of insurance in Montana or relative to a subject resident, located, or to be performed in Montana without complying with the applicable provisions of this code.

(2) No provision of this code shall apply with respect to:

(a) domestic farm mutual insurers as identified in chapter 4, except as stated in chapter 4;

(b) domestic benevolent associations as identified in chapter 6, except as stated in chapter 6; and

(c) fraternal benefit societies, except as stated in chapter 7.

(3) This code applies to health service corporations as prescribed in 33-30-102. The existence of such corporations is governed by Title 35, chapter 2, and related sections of the Montana Code Annotated.

(4) This code does not apply to health maintenance organizations to the extent that the existence and operations of such organizations are authorized by chapter 31.

(5) This code does not apply to workers' compensation insurance programs provided for in Title 39, chapter 71, ~~part~~ parts 21 and 23, and related sections.

(6) This code does not apply to the state employee group insurance program established in Title 2, chapter 18, part 8.

(7) This code does not apply to insurance funded through the state self-insurance reserve fund provided for in 2-9-202.

(8) (a) This code does not apply to any arrangement, plan, or interlocal agreement between political subdivisions of this state whereby the political subdivisions undertake to separately or jointly indemnify one another by way of a pooling, joint retention, deductible, or self-insurance plan.

(b) This code does not apply to any arrangement, plan, or interlocal agreement between political subdivisions of this state or any arrangement, plan, or program of a single political subdivision of this state whereby the political subdivision provides to its officers, elected officials, or employees disability insurance or life insurance through a self-funded program."

Section 23. Section 10, Chapter 664, Laws of 1987, is amended to read:

"Section 10. Effective date — ~~termination~~. This act is effective on passage and approval ~~and terminates June 30, 1991.~~"

NEW SECTION. Section 24. Time for filing tax returns. For the period from July 1, 1990, through June 30, 1991, each employer subject to the tax provided for in 39-71-2503 shall file, on or before the 20th day of May, August, November, and February, a return in the form and containing the information required by the department of labor and industry.



NEW SECTION. Section 25. Appropriation. There is appropriated \$124,131 from the general fund to the department of revenue for the fiscal year beginning July 1, 1990, to be used to convert state fund and department of labor and industry data relating to the collection of the employer's payroll tax and to prepare a system for the collection of the tax by the department of revenue.

NEW SECTION. Section 26. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. Section 27. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 28. Codification instruction. [Sections 1, 2, 4, and 5] are intended to be codified as an integral part of Title 39, chapter 71, part 23, and the provisions of Title 39, chapter 71, part 23, apply to [sections 1, 2, 4, and 5].

NEW SECTION. Section 29. Effective dates — applicability. (1) [Sections 1 through 13, 15, 17, 18, 20 through 28, and this section] are effective July 1, 1990.

(2) The change in the tax rate in 39-71-2503(1)(a) and the amendment inserted at the end of 39-71-2503(1)(a) by [section 16] are effective October 1, 1990, and apply to wages payable on or after July 1, 1990.

(3) [Sections 14 and 19] and all other amendments to 39-71-2503 contained in [section 16] are effective July 1, 1991."

And that this Conference Committee Report be adopted.

For the Senate:  
Aklestad  
Thayer  
Norman

For the House:  
Harper, Chairman  
Driscoll  
Glaser

## SECOND READING OF BILLS (COMMITTEE OF THE WHOLE)

Representative Harper moved the House resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Representative Menahan in the Chair.

Speaker Vincent: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

**HB 2 -** Representative Glaser moved the free conference committee report to HB 2 be adopted. Report adopted as follows:

Ayes: Aafedt, Blotkamp, Bradley, Brooke, D. Brown, J. Brown, Clark, Cocchiarella, Cohen, Compton, Connelly, Cooper, Daily, Darko, Davis, DeBruycker, Driscoll, Elliott, Eudaily, Gervais, Gilbert, Glaser, Gould, Grady, Hansen, Hanson, Harper, Harrington, Hayne, Hoffman, Iverson, Johnson,

Kadas, Keller, Kilpatrick, Kimberley, Knapp, Koehnke, McCormick, McDonough, Menahan, Moore, L. Nelson, R. Nelson, Nisbet, O'Connell, O'Keefe, Owens, Patterson, Pavlovich, Peterson, Quilici, Ream, Rice, Russell, Simon, Simpkins, Smith, Spaeth, Spring, Squires, Stang, Stickney, Strizich, Wallin, Westlake, Wyatt.

Total 67

Noes: Addy, Bachini, Bardanouve, Boharski, Campbell, Cobb, Cody, DeMars, Ellison, Good, Grinde, Guthrie, Kasten, Lee, Mercer, T. Nelson, Peck, Phillips, Ramirez, Raney, Rehberg, Roth, Schye, Steppler, Swift, Swysgood, Thoft, Thomas, Tunby, Vogel, Whalen, Zook, Mr. Speaker.

Total 33

Paired: Driscoll, Glaser, Gould, Harper, Moore, Peterson, Ream, Russell, Smith, Ayes; Boharski, Cobb, Cody, Good, Lee, T. Nelson, Ramirez, Roth, Thoft, Noes.

Excused: None.

Total 0

Absent or not voting: None.

Total 0

Representative Harper moved the committee rise and report. Motion carried. Committee arose. House resumed. Speaker Vincent in the Chair. Chairman Menahan moved the adoption of the committee report. Report adopted. (65-26)

### THIRD READING OF BILLS

The following bill having been read three several times, title and history agreed to, was disposed of in the following manner:

**HB 2**, free conference committee report, adopted as follows:

Ayes: Aafedt, Blotkamp, Bradley, Brooke, D. Brown, J. Brown, Clark, Cocchiarella, Cohen, Compton, Connelly, Cooper, Daily, Darko, Davis, DeBruycker, Driscoll, Elliott, Eudaily, Gervais, Gilbert, Glaser, Gould, Grady, Hansen, Hanson, Harper, Harrington, Hayne, Hoffman, Iverson, Johnson, Kadas, Keller, Kilpatrick, Kimberley, Knapp, Koehnke, McCormick, McDonough, Menahan, Moore, L. Nelson, R. Nelson, Nisbet, O'Connell, O'Keefe, Owens, Patterson, Pavlovich, Peterson, Quilici, Ream, Rice, Russell, Simon, Simpkins, Smith, Spaeth, Spring, Squires, Stang, Stickney, Strizich, Wallin, Westlake, Wyatt.

Total 67

Noes: Addy, Bachini, Bardanouve, Boharski, Campbell, Cobb, Cody, DeMars, Ellison, Good, Grinde, Guthrie, Kasten, Lee, Mercer, T. Nelson, Peck, Phillips, Ramirez, Raney, Rehberg, Roth, Schye, Steppler, Swift, Swysgood, Thoft, Thomas, Tunby, Vogel, Whalen, Zook, Mr. Speaker.

Total 33

Paired: Driscoll, Glaser, Gould, Harper, Moore, Peterson, Ream, Russell, Smith, Ayes; Boharski, Cobb, Cody, Good, Lee, T. Nelson, Ramirez, Roth, Thoft, Noes.

Excused: None.  
Total 0

Absent or not voting: None.  
Total 0

## MESSAGES FROM THE SENATE

May 25, 1990

John Vincent, Speaker  
House of Representatives  
State Capitol  
Helena, MT 59620

Dear Mr. Speaker:

I am directed by the Senate to inform the House of Representatives that the Free Conference Committee Report No. 1, on House Bill No. 2 was this day adopted on third reading by the Senate.

Respectfully,

JOHN W. LARSON  
Secretary of the Senate

## SPECIAL ORDERS OF THE DAY

The following farewell remarks were made by Speaker Vincent:

The last day always comes. As I leave the Montana House of Representatives, I want to say that it has been my goal as Speaker — first and foremost — to make this House run and work for each of you and the people of Montana. I hope that you will remember me as one who cared deeply about the House and its members and as one who tried to understand that beyond all individual and political considerations and issues of public policy, there is an essential need to work to protect and strengthen the institution in which we work to serve the people of Montana.

It says all that needs to be said at the moment that I will miss this House far more than it will miss me and that is just as it should be.

Serving as Speaker, both in 1985 and during the Centennial year, has been the greatest honor of my life. I thank all of you for your help, understanding and support.

At the conclusion of his remarks, Speaker Vincent received a standing ovation from the assembly.

## MOTIONS

Representative Harper moved joint rule 40-160 of the rules adopted for the Second Special Session of the Fifty-First Legislature be interpreted to allow five working days after the final legislative day of this Special Session for enrolling and signing of all bills and resolutions passed by this last day of the Second Special Session. Motion carried.

Representative Harper moved the House adjourn sine die. Motion carried.

House adjourned at 9:22 p.m.

John Vincent, Speaker

Joyce Andrus, Chief Clerk



ADDENDUM  
TO THE  
HOUSE JOURNAL

REPORTS OF STANDING COMMITTEES

BILLS (Menahan, Chairman):	5/29/90
Correctly enrolled: HB 2.	
Signed by the Speaker at 9:00 p.m., 5/29/90: HB 2.	
Delivered to the Governor for his approval at 9:40 a.m., 5/30/90: HB 2.	5/30/90

MESSAGES FROM THE GOVERNOR

May 30, 1990

The Honorable John Vincent  
Speaker of the House  
State Capitol  
Helena, Montana 59620

Dear Speaker Vincent:

Please be informed that I have signed House Bills 1 and 6 on May 30, 1990.

Sincerely,

STAN STEPHENS  
Governor

June 19, 1990

The Honorable John Vincent  
Speaker of the House  
State Capitol  
Helena, Montana 59620

Dear Speaker Vincent:

Please be informed that I have signed House Bill 2 on June 19, 1990.

Sincerely,

STAN STEPHENS  
Governor



SENATE  
JOURNAL

MAY 1990  
SPECIAL SESSION





# RULES ADDENDUM

FIRST SPECIAL SESSION, JUNE 19, 1989

## MONTANA STATE SENATE

### AMENDED OR DELETED JOINT RULES

#### 10-130 Bills.

Amended as follows: (1) A bill draft request must be sponsored by a member of the Legislature and must be within the Call to Convene the Montana Legislature into Special Session.

#### 40-40 Bill drafting request and introduction limitations.

Amended as follows: (1) (a) ~~Prior to 5 p.m. on December 5, preceding a regular session of the Legislature, a member may request an unlimited number of Bills and resolutions are to be prepared by the Legislative Council for introduction in the regular special session.~~

Delete subsections (b), (c) and (d).

(2) Bills and resolutions must be reviewed by the staff of the Legislative Council prior to introduction for proper format, style, and legal form, and for being within the Call for Special Session.

Add subsection:

(7) All bills and resolutions except committee bills shall be introduced no later than noon of the second legislative day or within one legislative day of the delivery of the bill.

#### 40-50 Schedules for drafting requests and bill introduction.

Add the following: All bill draft requests must be submitted no later than noon of the second legislative day. Delete the entire remainder of the section.

#### 40-150 Engrossing.

Amended as follows: When a bill has been reported favorably by Committee of the Whole of the house in which it originated and the report has been adopted, the bill must be engrossed. Committee of the Whole amendments must be included in the engrossed bill. The bill must be placed on the calendar for third reading not later than the succeeding legislative day.

#### 40-160 Enrolling.

Amended as follows:

(4) A bill that has passed both houses of the Legislature by the 90th last day may be:

(d) delivered to the Governor not later than five working days after ~~the 90th legislative day~~ adjournment.

(5) All journal entries authorized under this rule must be entered on the journal the 90th last day.

#### 40-200 Transmittal deadlines.

Delete entire section.

## AMENDED OR DELETED SENATE RULES

**S30-90 Notice of committee hearings — exceptions.**

Amended as follows: Subsection (1) add:

(d) during special session.

**S30-130 Committee requested legislation.**

Amended as follows: (1) At least three-fourths of all the members of a standing committee must have voted in favor of the question to allow the committee to request the introduction of legislation within the Call for Special Session.

**S40-10 Types of legislation.**

Amended as follows: (1) bills ~~of any subject, except appropriations which are within the Call;~~

(2) joint resolutions, which ~~may~~ are within the Call which may;

**S40-40 Reading limitations.**

Delete subsection (2).

**S40-60 Scheduling for second reading.**

Delete subsections (2) and (3).

**S50-60 Nondebatable motions.**

Delete subsections (5) and (11).

**S50-80 Previous question.**

Amend as follows: Add subsection

(4) If the motion carries, the sponsor shall have the right to close.

**S50-90 Reconsideration period.**

Delete subsection (5).

**S50-110 Conference committee reports.**

Amend as follows: When a conference committee report is filed with the Secretary of the Senate, the same shall be read under Order of Business No. 3, select committees, and placed on the calendar not later than the succeeding legislative day for consideration on second reading. If recommended favorably by the Committee of the Whole, it may be considered on third reading the same legislative day.

**S50-170 Third reading procedure.**

Amend as follows: (1) All legislation passing second reading shall be placed on third reading not later than the day following the receipt of the engrossing or other appropriate printing report.

**S70-30 Committee process.**

Amend as follows: Amend the title to read:

Confirmation process.

(4) After waiting ~~three~~ two days from the day of distribution of the preliminary standing committee report, the committee chairman shall issue formal standing committee reports for simple resolutions based on recommendations from the Senators and deliver the reports to the Secretary of the Senate.

(5) The Secretary will assign numbers and read the reports under Order of Business No. 2, reports of standing committees, and ~~forward them to request the Legislative Council for processing and printing to draft the formal Resolution of Confirmation.~~

(6) Thereafter, the resolution must be placed on Order of Business No. 11 not later than the next legislative day for consideration by the Senate. Motions to approve or disapprove of the resolution are in order and may be or debated.





## RULES ADDENDUM

SECOND SPECIAL SESSION, MAY 21, 1990

### MONTANA STATE SENATE

#### AMENDED OR DELETED RULES

**S30-90** Notice of committee hearing — exceptions.

Amended as follows:

Strike all but subsections (2) & (3) which read:

(2) When a committee hearing is scheduled with less than 3 days notice, the committee chairman shall use all practical means to disseminate notice of the hearing to the public.

(3) Notice of conference committee hearings must be given as provided in joint rule 30-30.

**S50-110** Conference committee reports.

Amended to read as follows:

When a conference committee report is filed with the Secretary of the Senate, the same shall be read under Order of Business No. 3, select committees, and placed on the calendar for consideration.

**S70-30** Committee process.

(1) (a) The committee shall hold hearings on the nominations after appropriate public notice has been made.

(b) As part of the hearing process, the committee may request biographical information from the Governor for each nominee, if none has been provided.

(2) Following the hearings, the committee shall issue preliminary standing committee reports to be distributed to each Senator, stating the committee's recommendations concerning the nominees.

(3) (a) If a Senator wishes to have an individual nominee, or group of nominees, considered by the Senate separately from the group of nominees recommended by the committee, the Senator may request of the chairman of the committee that the nominee or nominees be considered by a separate resolution.

(b) Amended to read: A Senator must request separate consideration of a nominee upon receipt of the preliminary standing committee report. The committee chairman shall honor this request.

(4) Amended to read: The committee chairman shall issue formal standing committee reports for simple resolutions based on recommendations from the Senators and deliver the reports to the Secretary of the Senate.

(5) The Secretary will assign numbers and read the reports

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under Order of Business No. 2 reports of standing committees, and forward them to the Legislative Council for processing and printing.

(6) Amended to read as follows: Thereafter, the resolution must be placed on Order of Business No. 11 not later than the next legislative day for consideration by the Senate. Motions to approve or disapprove of the resolution are in order and may be debated.

## FIRST LEGISLATIVE DAY

Helena, Montana  
May 21, 1990

Senate Chambers  
State Capitol

President Jack Galt called the Second Special Session of the 51st Legislature to order at 8 a.m.

### COMMUNICATIONS AND PETITIONS

May 4, 1990

TO: Members of the Montana State Senate  
Members of the Montana House of Representatives  
Members of the Montana Supreme Court  
Montana State Elected Officials

### GOVERNOR'S CALL TO CONVENE THE MONTANA LEGISLATURE INTO SPECIAL SESSION

By the power vested in me in Section 6, Article V and Section 11, Article VI of the Montana Constitution and such other applicable laws, I hereby call the Montana Legislature to convene into special session commencing at 8:00 a.m., Monday, May 21, 1990.

I have determined that it is in the public interest that the legislature convene into special session. The Call of the special session is limited to consideration of the following issues:

1. Consideration of legislation that will permit the Departments of Institutions and Administration to utilize inmate labor for the construction of certain long-range building projects provided for in House Bill 777, 1989 Regular Session, and exempting those projects from the limitations contained in section 53-1-301(1)(g), MCA, and the restrictions applying to these projects relating to public bidding, bonding, worker's compensation coverage, or labor or wage requirements, and for such legislation necessary as a result of Southwest Building and Construction Trades Council, et al. v. State of Montana, et al., First Judicial District Court, Lewis and Clark County, Cause Number DV-89-914.

2. Reconsideration of certain provisions of House Bill 28, passed by the 1989 Special Session of the Legislature, which was a broad revision of Montana school funding and taxation. In subsequent application of its provisions, certain provisions of the Act require amendments and clarification by the Montana Legislature. The subjects to be considered at said special session regarding school funding and taxation shall be limited to the following:

(A) Consideration of the elimination of the exemption from local government severance tax of the 30,000 cubic feet of natural gas per day, per well (classified as stripper wells) retroactive to calendar year 1989 production;

(B) Determination and definition of the base year for the distribution of the local government severance tax funds to all taxing jurisdictions within the county affected;

(C) Establishment of local government severance tax rates revenue neutral to net proceeds taxes paid on calendar year 1987 oil and gas production, from oil and gas wells drilled prior to July 1, 1985;

(D) Clarification of the terms "taxing district," "school district" and "district" to be uniform and consistent throughout section 15-36-112, MCA, by using the term "taxing jurisdiction";

(E) Replacement of the "unit value" distribution formula on the final step of the local government severance tax distribution procedure contained in section 15-36-112(4), MCA, with a percentage basis formula, thus eliminating the possibility of a "negative" distribution of local government severance tax;

(F) Clarification to make certain all local school district revenue from natural resource taxation is included in the guaranteed tax base calculation.

3. Consideration of legislation to segregate and separate the liability of the State Compensation Mutual Insurance Fund (the Fund) as of July 1, 1990, including the then existing unfunded liability of the Fund; to provide for the payment of retirement of such liability from revenues derived from the payroll tax and the proceeds of bonds issued in anticipation of the receipt thereof; and to authorize and provide for the extension of the payroll tax at a reduced rate not to exceed .28% per \$100.00, the issuance of bonds by the Board of Investments payable from and secured by the receipts and the collection of such tax.

4. Confirmation by the Montana State Senate of nominees selected for vacancies created in the Supreme Court and district courts. These nominees are:

**Justice Diane Barz**

Justice, Montana Supreme Court

Nominated to replace retiring Justice L. C. Gulbrandson

**District Judge Dorothy McCarter**

District Judge, First Judicial District Court, Helena, Montana

Nominated to replace retiring District Judge Henry Loble

**District Judge Maurice R. Colberg**

District Judge, Thirteenth Judicial District Court,

Billings, Montana

Nominated to replace Former District Judge Diane Barz, Justice, Montana Supreme Court

**District Judge Larry Moran**

District Judge, Eighteenth Judicial District Court

Bozeman, Montana

Nominated to replace retiring District Judge Joseph Gary

Sincerely,

STAN STEPHENS  
Governor



## SPECIAL ORDERS OF THE DAY

Captain Larry Field and members of the Montana National Guard posted the colors, followed by the pledge of allegiance to the flag.

Invocation by Chaplain Tom Banks.

President Galt welcomed the senators back to fun city. He acknowledged that they probably had more important things to do than spend more time in Helena and hoped they would restrain themselves to the three issues within the call of the Governor. He also reminded them that the people of Montana are always nervous when the legislature is in session and urged the members to do their duty and get out of town as expeditiously as they could.

Roll call. All members present. Quorum present.

## MOTIONS

Senator Gage moved that the officers, organization, rules, joint rules, order of business and all standing committees of the 51st Legislative Assembly First Special Session be made the officers, organization, rules, joint rules, order of business and all standing committees of the Second Special Session of the 51st Legislative Assembly, with the exception of Senate rules S30-90, S50-110, S70-30, which are amended or deleted as follows:

S30-90 Notice of committee hearing — exceptions.

Amended to read as follows:

Strike all but subsections (2) & (3) which read:

(2) When a committee hearing is scheduled with less than 3 days notice, the committee chairman shall use all practical means to disseminate notice of the hearing to the public.

(3) Notice of conference committee hearings must be given as provided in joint rule 30-30.

S50-110 Conference committee reports.

Amended to read as follows:

When a conference committee report is filed with the Secretary of the Senate, the same shall be read under Order of Business No. 3, select committees, and placed on the calendar for consideration.

S70-30 Committee process.

(1) (a) The committee shall hold hearings on the nominations after appropriate public notice has been made.

(b) As part of the hearing process, the committee may request biographical information from the Governor for each nominee, if none has been provided.

(2) Following the hearings, the committee shall issue preliminary standing committee reports to be distributed to each Senator, stating the committee's recommendations concerning the nominees.

(3) (a) If a Senator wishes to have an individual nominee or group of nominees considered by the Senate separately from the group of nominees recommended by the committee, the Senator may request of the chairman of the committee that the nominee or nominees be considered by a separate resolution.

(b) Amended to read as follows:

A Senator must request separate consideration of a nominee upon receipt of the preliminary standing committee report. The committee chairman shall honor this request.

(4) Amended to read as follows:

The committee chairman shall issue formal standing committee reports for simple resolutions based on recommendations from the Senators and deliver the reports to the Secretary of the Senate.

(5) The Secretary will assign numbers and read the reports under Order of Business No. 2, reports of standing committees, and forward them to the Legislative Council for processing and printing.

(6) Amended to read as follows:

Thereafter, the resolution must be placed on Order of Business No. 11 not later than the next legislative day for consideration by the Senate. Motions to approve or disapprove of the resolution are in order and may be debated.

Motion carried.

Senator Gage moved that the president appoint a select committee of three to notify the Governor that the Senate was organized and ready for business. Motion carried. The president appointed Senators Story, McLane, and Abrams and dismissed them from the chamber.

Senator Gage moved that the president appoint a select committee of three to notify the chief justice and members of the Supreme Court that the Senate was organized and ready for business. Motion carried. The president appointed Senators Crippen, Harp, and Pinsoneault and dismissed them from the chamber.

Senator Gage moved that the president appoint a select committee of three to notify the House that the Senate was organized and ready for business. Motion carried. The president appointed Senators Farrell, Aklestad, and Norman and dismissed them from the chamber.

Senator Gage moved that the Senate stand at ease subject to the call of the chair. Motion carried. Senate stood at ease at 8:11 a.m.

Senate resumed at 8:16 a.m., Mr. President in the chair.

May 21, 1990

## REPORTS OF SELECT COMMITTEES

Sergeant at Arms Moritz announced the return of the select committees and escorted them to the well of the Senate.

Senator Story and the committee to notify the Governor reported that he wished them God's speed in their work. President Galt thanked the committee and discharged them.

Senator Crippen and the committee to notify the Supreme Court reported that Chief Justice Turnage wished them well in deliberations and expected to see them out in due time. President Galt thanked the committee and discharged them.

Senator Farrell and the committee to notify the House reported that the House had forgotten to send a committee to notify the Senate, but Speaker Vincent informed the committee that they were willing to do business as usual. Senator Farrell told them that the Senate hoped they would do a better job than usual. President Galt thanked the committee and discharged them.

## MOTIONS

Senator Gage moved that the accredited members of the press, radio, and television be granted the privilege of the Senate floor subject to the rules. Motion carried.

## REPORTS OF STANDING COMMITTEES

LEGISLATIVE ADMINISTRATION (Rasmussen, chairman) May 23, 1990

Recommend employment of the following attaches as of 8 a.m., Monday, May 21, 1990:

## POSITION

## EMPLOYEE

Sec. of the Senate	John W. Larson
Sec. to the Sec.	Harriet A. Celar
Sgt. at Arms	Earl Moritz
Asst. Sgt. at Arms	Ralph Erving
Asst. Sgt. at Arms	Norman Eck
Asst. Sgt. at Arms	Susan Akey
Chaplain	Rev. Thomas Banks
Sec. to the President	Susan Ames
Sec. to Majority Leader	
Sec. to Minority Leader	Roberta Murphy
Chief Steno	Shirley Herrin
Journal Clerk	Rosana Skelton
Asst. Journal Clerk	Barbara Simic
Bills Clerk	Jean McLane
Asst. Bills Clerk	Connie Hager
Status Input	Elaine Eck
Bills Coordinator	Susan Byorth
Asst. Bills Coordinator	Angela Jette
Network Coordinator	Chris Racicot
Committee Secretary, Judiciary	Rosemary Jacoby
Committee Secretary, Labor	Delores Harris
Committee Secretary, Taxation	Jill Rohyans

Security  
Sec. to Minority Whip  
Doorman  
Pages

Ben Havdahl  
Jamee Dailey  
Ben Hainlin  
Keith Herrin, Heather Herrin,  
Mike Hill, Rob Werner

Report adopted.

### MESSAGES FROM THE GOVERNOR

May 18, 1990

The Honorable Jack Galt  
President, Montana State Senate  
Capitol Station  
Helena, Montana 59620

Dear President Galt:

I am on this day transmitting the following names for consideration by the Montana State Senate for confirmation of appointments to their respective judicial offices.

These individuals are:

**Justice Diane Barz**

Justice, Montana Supreme Court  
Nominated to replace retiring Justice L. C. Gulbrandson

**District Judge Dorothy McCarter**

District Judge, First Judicial District Court  
Helena, Montana  
Nominated to replace retiring District Judge Henry Loble

**District Judge Maurice R. Colberg**

District Judge, Thirteenth Judicial District Court  
Billings, Montana  
Nominated to replace Former District Judge Diane Barz,  
Justice, Montana Supreme Court

**District Judge Larry Moran**

District Judge, Eighteenth Judicial District Court  
Bozeman, Montana  
Nominated to replace retiring District Judge Joseph Gary

I am also transmitting to the Montana State Senate for confirmation the name of C. Bruce Loble, appointed to the judicial office of Chief Water Judge for the State of Montana pursuant to an Order of the Montana Supreme Court dated May 14, 1990.

Sincerely,

STAN STEPHENS  
Governor

President Galt referred the judicial appointments to the Committee on Judiciary.



**FIRST READING OF BILLS**

The following Senate bills were introduced, read first time, and referred to committees:

**SB 1**, introduced by Gage, referred to Committee on Taxation

**SB 2**, introduced by Noble, referred to Committee on Labor and Employment Relations

**ANNOUNCEMENTS**

Committee meetings were announced by committee chairmen.

Senator Gage moved that the Senate adjourn until 8 a.m., Tuesday, May 22, 1990. Motion carried.

Senate adjourned at 8:28 a.m.

**JACK E. GALT**  
President of the Senate

**JOHN W. LARSON**  
Secretary of the Senate



## SECOND LEGISLATIVE DAY

Helena, Montana  
May 22, 1990

Senate Chambers  
State Capitol

Senate convened at 8 a.m., Mr. President in the chair. Invocation by Reverend Randall Olson. Pledge of allegiance to the flag.

Roll call. All members present. Quorum present.

Mr. President: We, your Committee on Bills and Journal, having examined the daily journal for the first legislative day, find the same to be correct.

Anderson, chairman

### REPORTS OF STANDING COMMITTEES

TAXATION (Brown, chairman)

5/21/90

SB 1, introduced bill, be amended as follows:

1. Title, lines 4 through 8.  
Following: "ACT"  
Strike: remainder of line 4 through "PRODUCTION;" on line 8
2. Title, lines 14 and 15.  
Following: "WELLS"  
Strike: remainder of line 14 through "WELLS" on line 15
3. Title, line 19.  
Strike: "15-36-101,"
4. Page 1, line 24 through page 9, line 7.  
Strike: section 1 in its entirety  
Renumber: subsequent sections
5. Page 13, line 23.  
Strike: "~~8.72%~~"  
Insert: "7.625%"
6. Page 13, line 25.  
Strike: "~~8.72%~~"  
Insert: "7.625%"
7. Page 14, line 25.  
Strike: "~~and~~"  
Insert: "for production occurring after March 31, 1990, plus"
8. Page 15, line 24.  
Strike: "~~and~~"  
Insert: "for production occurring after March 31, 1990, plus"
9. Page 17, line 3.  
Strike: "~~and~~"  
Insert: "for production occurring after March 31, 1990, plus"
10. Page 18, line 8.  
Strike: "Sections 1 and 3"

Insert: "Section 2"

Strike: "apply"

Insert: "applies"

11. Page 18, lines 9 and 10.

Strike: "oil" on line 9 through "and" on line 10

and as amended do pass. Report adopted.

### MOTIONS

Senator Gage moved that the Senate recess for party caucuses until 8:35 a.m. Motion carried. Senate recessed at 8:03 a.m.

Senate reconvened at 8:38 a.m., Mr. President in the chair.

Senator Farrell moved that the Senate recess until 10 a.m. Motion carried. Senate recessed at 8:39 a.m.

Senate reconvened at 10 a.m., Mr. President in the chair.

### FIRST READING OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 3, introduced by Boylan, referred to Committee on Labor and Employment Relations

SB 4, introduced by Gage, referred to Committee on Taxation

### MOTIONS

Senator Gage moved that the Senate recess until 1 p.m. Motion carried. Senate recessed at 10:02 a.m.

Senate reconvened at 1 p.m., Mr. President in the chair.

### REPORTS OF STANDING COMMITTEES

TAXATION (Brown, chairman)

5/22/90

SB 4, introduced bill, do pass. Report adopted.

### MOTIONS

Senator Gage moved that the Senate recess until 1:20 p.m. for party caucuses. Motion carried. Senate recessed at 1:02 p.m.

Senate reconvened at 1:20 p.m., Mr. President in the chair. President Galt announced the Senate would stand at ease for five minutes and sent a page to inform the Democratic caucus that a quorum was present and that the Senate was ready for business.

Senate resumed at 1:25 p.m.



SECOND READING OF BILLS  
(COMMITTEE OF THE WHOLE)

Senator Gage moved that the Senate resolve itself into a committee of the whole for the consideration of business on second reading. Motion carried. Senator Crippen in the chair.

Mr. President: We, your Committee of the Whole having had under consideration business on second reading, recommend as follows:

SB 1 - Senator Gage moved that SB 1 do pass. Senator Mazurek moved that SB 1 be amended as follows:

1. Title, line 8.

Following: "PRODUCTION;"

Insert: "REVISING OIL AND NATURAL GAS LOCAL GOVERNMENT SEVERANCE TAX RATES; IMPOSING A REVENUE NEUTRAL LOCAL GOVERNMENT SEVERANCE TAX RATE ON NONWORKING INTEREST OWNERS OF OIL AND NATURAL GAS PRODUCTION;"

2. Title, line 15.

Following: "WELLS;"

Insert: "CLARIFYING THE LOCAL GOVERNMENT SEVERANCE TAX ON OIL STRIPPER WELLS;"

3. Title, line 19.

Following: "15-36-101,"

Insert: "15-36-101,"

4. Page 9.

Following: line 7

Insert: "Section 1. Section 15-36-101, MCA, is amended to read:

"15-36-101. Definitions and rate of tax — state severance tax — local government severance tax — assessment of nonworking interest owner — exemption. (1) Every person engaging in or carrying on the business of producing petroleum, other mineral or crude oil, or natural gas within this state or engaging in or carrying on the business of owning, controlling, managing, leasing, or operating within this state any well or wells from which any merchantable or marketable petroleum, other mineral or crude oil, or natural gas is extracted or produced ~~sufficient in quantity to justify the marketing of the same must~~ shall, except as provided in 15-36-121, each year when engaged in or carrying on the business in this state pay to the department of revenue a state severance tax for the exclusive use and benefit of the state of Montana plus a local government severance tax in lieu of a tax on net proceeds for the exclusive use and benefit of local government. ~~The Except as provided in subsection (3), the state severance tax and the local government severance tax are computed at the following rates as follows:~~

(a) except as provided in subsections (1)(b), (1)(c), and (1)(d), and (1)(e), a 5% of state severance tax on the total gross taxable value of all the petroleum and other mineral or crude oil produced by the person, plus the local government severance tax of 8.4% on ~~production the gross taxable value of all the petroleum and other mineral or crude oil produced by the person~~ other than interim production and new production, from each lease or unit; but in determining the amount of the state severance tax and local

government severance tax, there must be excluded from consideration all petroleum or other crude or mineral oil produced and used by the person during the year in connection with his operations in prospecting for, developing, and producing the petroleum or crude or mineral oil;

(b) a 2.65% of state severance tax on the total gross taxable value of all natural gas produced by the person, plus the local government severance tax of 15.25% on the total gross taxable value of all natural gas production produced by the person other than interim production or new production, from each lease or unit; but in determining the amount of the state severance tax and the local government severance tax, there must be excluded from consideration all gas produced and used by the person during the year in connection with his operations in prospecting for, developing, and producing the gas or petroleum or crude or mineral oil; and there must also be excluded from consideration all gas, including carbon dioxide gas, recycled or reinjected into the ground;

(c) a 2.5% of state severance tax on the total gross taxable value of the incremental petroleum and other mineral or crude oil produced by the person, plus the local government severance tax of 4.2% on production the total gross taxable value of the incremental petroleum and other mineral or crude oil produced by the person other than interim production and new production, from each lease or unit in a tertiary recovery project after July 1, 1985. For purposes of this section, a tertiary recovery project must meet the following requirements:

(i) the project must be approved as a tertiary recovery project by the department of revenue. The approval may be extended only after notice and hearing in accordance with Title 2, chapter 4.

(ii) the property to be affected by the project must be adequately delineated according to the specifications required by the department; and

(iii) the project must involve the application of one or more tertiary recovery methods that can reasonably be expected to result in an increase, determined by the department to be significant in light of all the facts and circumstances, in the amount of crude oil which may potentially be recovered. For ~~the purpose purposes~~ of this section, tertiary recovery methods include but are not limited to:

- (A) miscible fluid displacement;
- (B) steam drive injection;
- (C) micellar/emulsion flooding;
- (D) in situ combustion;
- (E) polymer augmented water flooding;
- (F) cyclic steam injection;
- (G) alkaline or caustic flooding;
- (H) carbon dioxide water flooding;

(I) immiscible carbon dioxide displacement; or

(J) any other method approved by the department as a tertiary recovery method.

(d) except as provided in 15-36-121(2), ~~a 3% of state severance tax on the total gross taxable value of all the petroleum and other mineral or crude oil production produced by the person after the first 5 barrels, plus the local government severance tax of 4.2% on all production other than interim production and new production, produced by from a stripper well, as defined in 15-36-121, that produces more than 5 barrels a day during the period beginning April 1, 1989, and ending March 31, 1991;~~

(e) a 4.2% local government severance tax on the total gross taxable value of all petroleum and other mineral or crude oil produced by the person other than interim and new production produced by a stripper well, as defined in 15-36-121.

(2) For purposes of this section, the term "incremental petroleum and other mineral or crude oil" means the amount of oil, as determined by the department of revenue, to be in excess of what would have been produced by primary and secondary methods. The determination arrived at by the department must be made only after notice and hearing and shall specify through the life of a tertiary project, calendar year by calendar year, the combined amount of primary and secondary production that must be used to establish the incremental production from each lease or unit in a tertiary recovery project.

(3) (a) A local government severance tax is imposed on the gross value paid in cash or apportioned in kind to a nonworking interest owner by the operator or producer of extracted marketable petroleum, other mineral or crude oil, or natural gas subject to local government severance taxes imposed under this chapter. The local government severance tax on nonworking interest owners is computed at the following rates:

(i) 12.5% on the gross value paid in cash or apportioned in kind to a nonworking interest owner by the operator or producer of extracted marketable petroleum and other mineral or crude oil;

(ii) 15.25% on the gross value paid in cash or apportioned in kind to a nonworking interest owner by the operator or producer of extracted or marketable natural gas.

(b) The amounts paid or apportioned in kind to nonworking interest owners are exempt from the local government severance taxes imposed under 15-36-121(3) and (4) and under subsections (1)(a) through (1)(e) of this section.

(3)(4) Nothing in this part may be construed as requiring laborers or employees hired or employed by any person to drill any oil or natural gas well or to work in or about any oil or natural gas well or prospect or explore for or do any work for the purpose of developing any petroleum, or other mineral or crude oil, or natural gas to pay the severance tax, nor may work done or the drilling of a well or wells for the purpose of prospecting or exploring for petroleum, or other mineral or crude oils oil, or natural gas or for the purpose of developing them be considered to be the engaging in or carrying on of the business. If, in the doing of any work, in the drilling



of any oil or natural gas well, or in prospecting, exploring, or development work, any merchantable or marketable petroleum, ~~or~~ other mineral or crude oil, or natural gas in excess of the quantity required by the person for carrying on the operation is produced sufficient in quantity to justify the marketing of the petroleum, ~~or~~ other mineral or crude oil, or natural gas, the work, drilling, prospecting, exploring, or development work is considered to be the engaging in and carrying on of the business of producing petroleum, ~~or~~ other mineral or crude oil, or natural gas within this state within the meaning of this section.

(4)(5) Every person required to pay the state or local government severance tax under this section shall pay the tax in full for his own account and for the account of each of the other owner or owners of the gross proceeds in value or in kind of all the marketable petroleum or other mineral or crude oil or natural gas extracted and produced, including owner or owners of working interest, royalty interest, overriding royalty interest, carried working interest, net proceeds interest, production payments, and all other interest or interests owned or carved out of the total gross proceeds in value or in kind of the extracted marketable petroleum or other mineral or crude oil or natural gas, except that any of the interests that are owned by the federal, state, county, or municipal governments are exempt from taxation under this chapter. Unless otherwise provided in a contract or lease, the pro rata share of any royalty owner or owners will be deducted from any settlements under the lease or leases or division of proceeds orders or other contracts.

(6) For purposes of this section, the following definitions apply:

(a) "Gross taxable value" means the gross value of the product as determined in 15-36-103 less the gross value paid in cash or apportioned in kind to a nonworking interest owner by the operator or producer of extracted marketable petroleum, other mineral or crude oil, or natural gas.

(b) "Nonworking interest owner" means any interest owner who does not share in the development and operation costs of the lease or unit. (Subsection (1)(d) terminates on occurrence of contingency—sec. 7, Ch. 656, L. 1987.)"

Renumber: subsequent sections

5. Page 18, lines 11 through 13.

Strike: "SECTION 2" on line 11

Insert: "Sections 1 and 3"

Following: "apply"

Strike: "APPLIES"

Insert: "apply"

Following: "oil and" on line 13

Insert: "oil and"

Amendment adopted unanimously, 50-0.

Senator Gage moved that SB 1 as amended do pass. Motion carried as follows:

Ayes: Aklestad, Anderson, Beck, Bengtson, Bishop, Blaylock, Brown, Crippen, Devlin, Eck, Farrell, Gage, Hager, Halligan, Hammond, Harding, Harp, Himsl, Hofman, Jenkins, Jergeson, Keating, Manning, Mazurek, McLane,



May 22, 1990

Meyer, Nathe, Noble, Pinsoneault, Pipinich, Rasmussen, Severson, Story, Svrcek, Thayer, Tveit, Van Valkenburg, Vaughn, Weeding, Williams, Mr. President.

Total 41

Noes: Abrams, Boylan, Jacobson, Lynch, Norman, Regan, Stimatz, Walker, Yellowtail.

Total 9

Excused: None.

Total 0

Absent or not voting: None.

Total 0

Senator Gage moved the committee rise and report. Motion carried. Committee arose. Senate resumed, Mr. President in the chair. Chairman Crippen moved the adoption of the committee report. Report adopted.

### THIRD READING OF BILLS

The following bill having been read three several times, title and history agreed to, was disposed of in the following manner:

SB 1 passed by the following vote:

Ayes: Aklestad, Anderson, Beck, Bengtson, Bishop, Blaylock, Brown, Crippen, Devlin, Eck, Farrell, Gage, Hager, Halligan, Hammond, Harding, Harp, Himsl, Hofman, Jenkins, Jergeson, Keating, Mazurek, McLane, Meyer, Nathe, Noble, Pinsoneault, Pipinich, Rasmussen, Severson, Story, Svrcek, Thayer, Tveit, Van Valkenburg, Vaughn, Weeding, Williams, Mr. President.

Total 40

Noes: Abrams, Boylan, Jacobson, Lynch, Manning, Norman, Regan, Stimatz, Walker, Yellowtail.

Total 10

Excused: None.

Total 0

Absent or not voting: None.

Total 0

### MESSAGES FROM THE GOVERNOR

May 22, 1990

The Honorable Jack Galt

President, Montana Senate

The Honorable John Vincent

Speaker, Montana House of Representatives

Members of the Montana State Senate

Members of the Montana House of Representatives

Montana State Elected Officials

Justices of the Montana Supreme Court

On May 14, 1990, I received an Order from the Montana Supreme Court regarding the cause entitled "In the Matter of the Appointment of a Chief Water Judge for the Remainder of a Term Commencing May 14, 1990, and for the Duration of the Term Ending June 30, 1993."

The Order provided for the appointment of C. Bruce Loble of Helena, Montana, as the Chief Water Judge of the state of Montana. The appointment was concurred in by the remaining Justices of the Montana Supreme Court. Chief Justice Turnage has conveyed to me that it is imperative that C. Bruce Loble's confirmation be heard and considered by the Montana State Senate when it convenes in special session on May 21, 1990; failure to confirm before the Senate adjourns will create a vacancy in that office. I concur in that observation.

Therefore, by the power vested in me by Section 6, Article V and Section 11, Article VI of the Montana Constitution and such other applicable laws, I hereby request that the Montana Legislature and, more specifically, the Montana State Senate consider the confirmation of the selection of Chief Water Judge C. Bruce Loble in addition to the specific considerations contained in my letter calling for the special session dated May 4, 1990.

Sincerely,

STAN STEPHENS  
Governor

President Galt referred the appointment to the Committee on Judiciary.

### FIRST READING OF BILLS

The following Senate bill was introduced, read first time, and referred to committee:

SB 5, introduced by Thayer, Svrcek, referred to committee on Labor and Employment Relations

### ANNOUNCEMENTS

Committee meetings were announced by committee chairmen.

Senator Gage moved that the Senate adjourn until 8 a.m., Wednesday, May 23, 1990. Motion carried.

Senate adjourned at 3:56 p.m.

JACK E. GALT  
President of the Senate

JOHN W. LARSON  
Secretary of the Senate

## THIRD LEGISLATIVE DAY

Helena, Montana  
May 23, 1990

Senate Chambers  
State Capitol

Senate convened at 8 a.m., Mr. President in the chair. Invocation by Chaplain Banks. Pledge of allegiance to the flag.

Roll call. All members present. Quorum present.

Mr. President: We, your Committee on Bills and Journal, having examined the daily journal for the second legislative day, find the same to be correct.

Anderson, chairman

### MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence: 5/22/90

HB 1, introduced by Thoft  
HB 2, introduced by Glaser

### FIRST READING OF BILLS

The following House bills were introduced, read first time, and referred to committees: 5/23/90

HB 1, introduced by Thoft, referred to Committee on Labor and Employment Relations

HB 2, introduced by Glaser, Harper, referred to Committee on Labor and Employment Relations

### MOTIONS

Committee meetings were announced by committee chairmen.

Senator Gage moved that the Senate recess until 1:30 p.m. Motion carried. Senate recessed at 8:05 p.m.

Senate reconvened at 1:30 p.m., Mr. President in the chair.

### REPORTS OF STANDING COMMITTEES

JUDICIARY (Crippen, chairman) 5/23/90

SR 1, be adopted. Report adopted.

SR 2, be adopted. Report adopted.

SR 3, be adopted. Report adopted.

SR 4, be adopted. Report adopted.

SR 5, be adopted. Report adopted.

LABOR AND EMPLOYMENT RELATIONS (Aklestad, chairman) 5/23/90

HB 1, second reading copy, be concurred in. Report adopted.

### MOTIONS

Committee meetings were announced by committee chairmen.

Senator Gage moved that the Senate recess until 4:30 p.m. Senate recessed at 1:33 p.m.

Senate resumed at 4:30 p.m., Mr. President in the chair.

Senator Gage moved that the Senate recess until 5 p.m. Motion carried. Senate recessed at 4:31 p.m.

Senate reconvened at 5 p.m., Mr. President in the chair.

### REPORTS OF STANDING COMMITTEES

LABOR AND EMPLOYMENT RELATIONS (Aklestad, chairman) 5/23/90  
SB 3, introduced bill, do pass. Report adopted.

### MESSAGES FROM THE OTHER HOUSE

Senate bill concurred in as amended and returned for concurrence in House amendments: 5/23/90

SB 1, introduced by Gage

### SECOND READING OF BILLS (COMMITTEE OF THE WHOLE)

Senator Gage moved that the Senate resolve itself into a committee of the whole for the consideration of business on second reading. Motion carried. Senator Halligan in the chair.

Mr. President: We, your Committee of the Whole having had under consideration business on second reading, recommend as follows:

SB 1 House Amendments - Senator Gage moved that the Senate reject the House amendments to SB 1. Motion carried as follows:

Ayes: Aklestad, Anderson, Beck, Bengtson, Bishop, Boylan, Brown, Crippen, Devlin, Farrell, Gage, Hager, Hammond, Harding, Harp, Himsl, Hofman, Jenkins, Jergeson, Keating, McLane, Meyer, Nathe, Noble, Pipinich, Rasmussen, Severson, Stimatz, Story, Thayer, Tveit, Weeding, Williams, Mr. President.  
Total 34

Noes: Abrams, Blaylock, Eck, Halligan, Jacobson, Lynch, Manning, Mazurek, Norman, Pinsoneault, Regan, Svrcek, Van Valkenburg, Vaughn, Walker, Yellowtail.  
Total 16

Excused: None.  
Total 0

Absent or not voting: None.  
Total 0

HB 1 - Senator Noble moved that HB 1 be concurred in. Motion carried as follows:



Ayes: Abrams, Aklestad, Anderson, Beck, Bengtson, Bishop, Boylan, Brown, Crippen, Devlin, Eck, Farrell, Gage, Hager, Halligan, Hammond, Harding, Harp, Himsl, Hofman, Jenkins, Jergeson, Keating, Mazurek, McLane, Meyer, Nathe, Noble, Pinsoneault, Rasmussen, Regan, Severson, Story, Svrcek, Thayer, Tveit, Van Valkenburg, Weeding, Williams, Mr. President.  
Total 40

Noes: Blaylock, Jacobson, Lynch, Manning, Norman, Pipinich, Stimatz, Vaughn, Walker, Yellowtail.  
Total 10

Excused: None.  
Total 0

Absent or not voting: None.  
Total 0

Senator Gage moved the committee rise and report. Motion carried. Committee arose. Senate resumed, Mr. President in the chair. Chairman Halligan moved the adoption of the committee report. Report adopted.

### THIRD READING OF BILLS

The following bill having been read three several times, title and history agreed to, was disposed of in the following manner:

**HB 1** concurred in by the following vote:

Ayes: Abrams, Aklestad, Anderson, Beck, Bengtson, Bishop, Boylan, Brown, Crippen, Devlin, Eck, Farrell, Gage, Hager, Halligan, Hammond, Harding, Harp, Himsl, Hofman, Jenkins, Jergeson, Keating, Mazurek, McLane, Meyer, Nathe, Noble, Pinsoneault, Rasmussen, Regan, Severson, Story, Svrcek, Thayer, Tveit, Van Valkenburg, Weeding, Williams, Mr. President.  
Total 40

Noes: Blaylock, Jacobson, Lynch, Manning, Norman, Pipinich, Stimatz, Vaughn, Walker, Yellowtail.  
Total 10

Excused: None.  
Total 0

Absent or not voting: None.  
Total 0

### SPECIAL ORDERS OF THE DAY

Senator Crippen moved that the appointment of Diane Barz, Billings, Montana, appointed to serve as Justice of the Supreme Court, to replace retiring Justice L. C. Gulbrandson in accordance with Senate Resolution No. 1, be voted upon with the ayes and nays spread upon the journal. Resolution adopted as follows:

Ayes: Abrams, Aklestad, Anderson, Beck, Bengtson, Bishop, Blaylock, Boylan, Brown, Crippen, Devlin, Eck, Farrell, Gage, Hager, Halligan, Hammond, Harding, Harp, Himsl, Hofman, Jacobson, Jenkins, Jergeson, Keating,

Manning, Mazurek, McLane, Meyer, Nathe, Noble, Norman, Pinsoneault, Pipinich, Rasmussen, Regan, Severson, Story, Svrcek, Thayer, Tveit, Van Valkenburg, Vaughn, Walker, Weeding, Williams, Yellowtail, Mr. President.  
Total 48

Noes: Lynch, Stimatz.  
Total 2

Excused: None.  
Total 0

Absent or not voting: None.  
Total 0

Senator Crippen moved that the appointment of Dorothy McCarter, Helena, Montana, appointed to the First Judicial District Court, to replace Judge Henry Loble in accordance with Senate Resolution No. 2, be voted upon with the ayes and nays spread upon the journal. Resolution adopted as follows:

Ayes: Abrams, Aklestad, Anderson, Beck, Bengtson, Bishop, Blaylock, Boylan, Brown, Crippen, Devlin, Eck, Farrell, Gage, Hager, Halligan, Hammond, Harding, Harp, Himsl, Hofman, Jacobson, Jenkins, Jergeson, Keating, Lynch, Manning, Mazurek, McLane, Meyer, Nathe, Noble, Norman, Pinsoneault, Pipinich, Rasmussen, Regan, Severson, Stimatz, Story, Svrcek, Thayer, Tveit, Van Valkenburg, Vaughn, Walker, Weeding, Williams, Yellowtail, Mr. President.  
Total 50

Noes: None.  
Total 0

Excused: None.  
Total 0

Absent or not voting: None.  
Total 0

Senator Crippen moved that the appointment of Maurice R. Colberg, Billings, Montana, appointed to the Thirteenth Judicial District, to replace District Judge Diane Barz, in accordance with Senate Resolution No. 3, be voted upon with the ayes and nays spread upon the journal. Resolution adopted as follows:

Ayes: Abrams, Aklestad, Anderson, Beck, Bengtson, Bishop, Blaylock, Boylan, Brown, Crippen, Devlin, Eck, Farrell, Gage, Hager, Halligan, Hammond, Harding, Harp, Himsl, Hofman, Jacobson, Jenkins, Jergeson, Keating, Lynch, Manning, Mazurek, McLane, Meyer, Nathe, Noble, Norman, Pinsoneault, Pipinich, Rasmussen, Regan, Severson, Stimatz, Story, Svrcek, Thayer, Tveit, Van Valkenburg, Vaughn, Walker, Weeding, Williams, Yellowtail, Mr. President.  
Total 50

Noes: None.  
Total 0

Excused: None.  
Total 0

Absent or not voting: None.

Total 0

Senator Crippen moved that the appointment of Larry Moran, Bozeman, Montana, appointed to replace retiring District Judge Joseph Gary in accordance with Senate Resolution No. 4, be voted upon with the ayes and nays spread upon the journal. Resolution adopted as follows:

Ayes: Abrams, Aklestad, Anderson, Beck, Bengtson, Bishop, Blaylock, Boylan, Brown, Crippen, Devlin, Eck, Farrell, Gage, Hager, Halligan, Hammond, Harding, Harp, Himsl, Hofman, Jacobson, Jenkins, Jergeson, Keating, Lynch, Manning, Mazurek, McLane, Meyer, Nathe, Noble, Norman, Pinsoneault, Pipinich, Rasmussen, Regan, Severson, Stimatz, Story, Svrcek, Thayer, Tveit, Van Valkenburg, Vaughn, Walker, Weeding, Williams, Yellowtail, Mr. President.

Total 50

Noes: None.

Total 0

Excused: None.

Total 0

Absent or not voting: None.

Total 0

Senator Crippen moved that the appointment of C. Bruce Loble, Helena, Montana, appointed as Chief Water Judge, to replace deceased Chief Water Judge W. W. Lessley, in accordance with Senate Resolution No. 5, be voted upon with the ayes and nays spread upon the journal. Resolution adopted as follows:

Ayes: Abrams, Aklestad, Anderson, Beck, Bengtson, Bishop, Blaylock, Boylan, Brown, Crippen, Devlin, Eck, Farrell, Gage, Hager, Halligan, Hammond, Harding, Harp, Himsl, Hofman, Jacobson, Jenkins, Jergeson, Keating, Lynch, Manning, Mazurek, McLane, Meyer, Nathe, Noble, Norman, Pinsoneault, Pipinich, Rasmussen, Regan, Severson, Stimatz, Story, Svrcek, Thayer, Tveit, Van Valkenburg, Vaughn, Walker, Weeding, Williams, Yellowtail, Mr. President.

Total 50

Noes: None.

Total 0

Excused: None.

Total 0

Absent or not voting: None.

Total 0

### ANNOUNCEMENTS

Committee meetings were announced by committee chairmen.

Senator Gage moved that the Senate adjourn until 8 a.m., Thursday, May 24, 1990. Motion carried.

Senate adjourned at 5:50 p.m.

JACK E. GALT  
President of the Senate

JOHN W. LARSON  
Secretary of the Senate



## FOURTH LEGISLATIVE DAY

Helena, Montana  
May 24, 1990

Senate Chambers  
State Capitol

Senate convened at 8 a.m., Mr. President in the chair. Invocation by Chaplain Banks. Pledge of allegiance to the flag.

Roll call. All members present except Farrell, Halligan, excused. Quorum present.

Mr. President: We, your Committee on Bills and Journal, having examined the daily journal for the third legislative day, find the same to be correct.

Anderson, chairman

### MESSAGES FROM THE OTHER HOUSE

SB 1 - House suspended the rules to allow the speaker to appoint a free conference committee to meet with a like committee from the Senate on SB 1. The speaker appointed:

Representative Schye, chairman  
Representative Kadas  
Representative Patterson

### MOTIONS

Senator Gage moved that the Senate reconsider its action in rejecting House amendments to SB 1 on second reading the previous legislative day. Motion carried as follows:

Ayes: Abrams, Anderson, Bengtson, Bishop, Blaylock, Boylan, Brown, Devlin, Eck, Gage, Hager, Hammond, Harding, Jacobson, Lynch, Manning, McLane, Meyer, Nathe, Noble, Norman, Pinsoneault, Pipinich, Rasmussen, Regan, Severson, Stimatz, Svrcek, Tveit, Van Valkenburg, Vaughn, Walker, Weeding, Williams.  
Total 34

Noes: Aklestad, Beck, Crippen, Harp, Himsl, Hofman, Jenkins, Jergeson, Keating, Mazurek, Story, Thayer, Yellowtail, Mr. President.  
Total 14

Excused: Farrell, Halligan.  
Total 2

Absent or not voting: None.  
Total 0

### SECOND READING OF BILLS (COMMITTEE OF THE WHOLE)

Senator Gage moved that the Senate resolve itself into a committee of the whole for the consideration of business on second reading. Motion carried. Senator Harp in the chair.

Mr. President: We, your Committee of the Whole having had under consideration business on second reading, recommend as follows:

**SB 1** - House amendments - Senator Gage moved that the Senate reject the House amendments to SB 1. Motion carried as follows:

Ayes: Abrams, Aklestad, Anderson, Beck, Bengtson, Bishop, Blaylock, Boylan, Brown, Crippen, Devlin, Gage, Hager, Hammond, Harding, Himsl, Hofman, Jenkins, Jergeson, Keating, McLane, Meyer, Nathe, Noble, Pinsoneault, Pipinich, Rasmussen, Severson, Stimatz, Story, Thayer, Tveit, Van Valkenburg, Weeding, Williams, Mr. President.

Total 36

Noes: Eck, Harp, Jacobson, Lynch, Manning, Mazurek, Norman, Regan, Svrcek, Vaughn, Walker, Yellowtail.

Total 12

Excused: Farrell, Halligan.

Total 2

Absent or not voting: None.

Total 0

Senator Gage moved the committee rise and report and beg leave to sit again. Motion carried. Committee arose. Senate resumed, Mr. President in the chair. Chairman Harp moved the adoption of the committee report. Report adopted.

## MOTIONS

Senator Farrell present at this time.

**SB 1** - Senator Gage moved that the president be authorized to appoint a free conference committee to meet with a like committee from the House on SB 1. Motion carried. The president appointed:

Senator Gage, chairman  
Senator Crippen  
Senator Mazurek

Senator Gage moved the Senate stand in recess until 1 p.m. Motion carried. Senate recessed at 8:24 a.m.

Senate reconvened at 1 p.m., Mr. President in the chair.

## REPORTS OF STANDING COMMITTEES

LABOR AND EMPLOYMENT RELATIONS (Keating, vice chairman)

5/24/90

**HB 2**, second reading copy, be amended as follows:

1. Title, lines 9 through 23.

Following: "DATE;" on line 9

Strike: remainder of line 9 through "2020;" on line 23

Insert: "REQUIRING THAT THE STATE FUND SHALL CHARGE AMOUNTS SUFFICIENT TO PROVIDE REVENUE TO SATISFY CLAIMS AS THEY BECOME DUE AND PAYABLE; REQUIRING THAT

THE STATE FUND SHALL INCREASE PREMIUM RATES BY 7 PERCENT TO ASSURE SUFFICIENT REVENUE TO SATISFY CLAIMS AS THEY BECOME DUE AND PAYABLE;"

2. Title, page 2, lines 2 and 3.

Strike: "39-71-116," on line 2 through "THROUGH" on line 3

Insert: "39-71-2311 AND"

Following: "39-71-2316," on line 3

Insert: "MCA;"

Strike: "39-71-2321,"

3. Page 2, lines 4 through 7.

Strike: all of line 4 through "DATE" on line 7

Insert: "AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

4. Page 2, following line 7.

Insert: "STATEMENT OF INTENT"

The legislature recognizes that the unfunded liability currently existing in the state fund cannot be fully addressed at this time. The legislature further recognizes that the unfunded liability will have to be addressed from time to time in future legislative sessions; that other sources of revenue may have to be obtained from time to time to assist in reducing the unfunded liability; and that because of the current state of the economy and because of the current premium rates being charged employers, there should not be a substantial increase in premium rates at this time."

5. Pages 2 through 31.

Strike: everything after the enacting clause

Insert: "NEW SECTION. Section 1. Purpose of separation of state fund liability as of July 1, 1990. (1) An unfunded liability exists in the state fund. It has existed since at least the mid-1980s and has grown each year. There have been numerous attempts to solve the problem by legislation and other methods. These attempts have alleviated the problem somewhat, but the problem has not been solved.

(2) The legislature has determined that it is necessary to the public welfare to make workers' compensation insurance available to all employers through the state fund as the insurer of last resort. In making this insurance available, the state fund has incurred the unfunded liability. The legislature has determined that the most cost-effective and efficient way to treat claims that arise on or after July 1, 1990, is to separate the liability of the state fund for the purpose of establishing premium rates on the basis of whether a claim arose before July 1, 1990, or on or after that date.

Section 2. Section 39-71-2311, MCA, is amended to read:

"39-71-2311. Intent and purpose of plan. It is the intent and purpose of the state fund to allow employers the option to insure their liability for workers' compensation and occupational disease coverage with a nonprofit, independent public corporation. The state fund is required to insure any employer in this state requesting coverage, and it may not refuse coverage for an employer unless an assigned risk plan is established under 39-71-431 and is in effect. ~~The state fund must be neither more nor less than self-supporting. Premium rates must be set at a level sufficient to fund the insurance program, including the costs of~~



~~administration, benefits, and adequate reserves.~~ For the purpose of keeping the state fund solvent, it must implement variable pricing levels within individual rate classifications to reward an employer with a good safety record and penalize an employer with a poor safety record."

Section 3. Section 39-71-2316, MCA, is amended to read:

"39-71-2316. Powers of the state fund — rulemaking. For the purposes of carrying out its functions, the state fund may:

(1) insure any employer for workers' compensation and occupational disease liability as the coverage is required by the laws of this state and, in connection with the coverage, provide employers' liability insurance. The state fund may charge a minimum yearly premium to cover its administrative costs for coverage of a small employer.

(2) sue and be sued;

(3) adopt, amend, and repeal rules relating to the conduct of its business;

(4) enter into contracts relating to the administration of the state fund, including claims management, servicing, and payment;

(5) collect and disburse money received;

(6) adopt classifications and charge premiums for the classifications ~~so that the state fund will be neither more nor less than self-supporting; in amounts sufficient to provide revenue to satisfy claims as they become due and payable. However, in order to assure this cash flow in the future, the state fund shall increase total premium rates for the fiscal year commencing July 1, 1990, by 7% of the immediately preceding fiscal year's total premium.~~ The state fund must belong to the national council on compensation insurance and shall use the classifications of employment adopted by the national council and corresponding rates as a basis for setting its own rates.

(7) pay the amounts determined due under a policy of insurance issued by the state fund;

(8) hire personnel;

(9) declare dividends if there is an excess of assets over liabilities. However, dividends may not be paid until the unfunded liability of the state fund is eliminated and adequate actuarially determined reserves are determined.

(10) perform all functions and exercise all powers of a domestic mutual insurer that are necessary, appropriate, or convenient for the administration of the state fund."

**NEW SECTION.** Section 4. Settlement of fixed benefit claims that arose prior to July 1, 1990. (1) The state fund shall offer a lump-sum settlement to each person who has a claim that arose before July 1, 1990, for which the state fund has accepted liability, other than liability for medical benefits, and has fixed benefits. The lump-sum settlement must be 80% of the amount of liability accepted by the state fund, discounted to present value. Each settlement offer must contain a provision granting the state



fund a full and unconditional release of liability, other than liability for medical benefits, in exchange for accepting the lump-sum settlement. The claimant shall accept a lump-sum settlement in writing before November 1, 1990, or the settlement offer is void.

(2) If the lump-sum settlement offer made pursuant to subsection (1) is not accepted, the lump-sum law in effect on the date of the injury applies.

NEW SECTION. Section 5. Request for proposals for claims settlement. The state fund shall prepare a request for proposals for contracting with private claims adjusters for settling the claims of persons whose benefits have not been determined under a claim that arose before July 1, 1990. The request for proposals may be based upon a dollar amount of unsettled claims or upon a percentage of claims for which benefits have not been determined. The state fund may not enter into a contract based upon a proposal until it has reported the results of the proposals to the 52nd legislature and has received legislative authorization to enter into a contract based upon a proposal.

NEW SECTION. Section 6. Exemption from notice requirement. The 30-day notice requirement imposed under 33-15-1106 does not apply to rate changes effective July 1, 1990, that occur in response to the provisions of [this act].

NEW SECTION. Section 7. Effective date. [This act] is effective on passage and approval."

and as amended be concurred in. Report adopted.

## MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

5/24/90

HB 6, introduced by Bardanouve

## MOTIONS

Senator Gage moved that the Senate recess until 1:20 p.m. for party caucuses. Motion carried. Senate adjourned at 1:02 p.m.

Senate reconvened at 1:20 p.m., Mr. President in the chair.

## FIRST READING OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 6, introduced by Svrcek, referred to Committee on Labor and Employment Relations

SB 7, introduced by Svrcek, referred to Committee on Labor and Employment Relations

HB 6, introduced by Bardanouve, referred to Committee on Finance and Claims

**SECOND READING OF BILLS  
(COMMITTEE OF THE WHOLE)**

Senator Gage moved that the Senate resolve itself into a committee of the whole for the consideration of business on second reading. Motion carried. Senator Harp in the chair.

Mr. President: We, your Committee of the Whole having had under consideration business on second reading, recommend as follows:

**HB 2** - Senator Aklestad moved that HB 2 be concurred in. Motion carried as follows:

Ayes: Abrams, Aklestad, Anderson, Beck, Bengtson, Bishop, Blaylock, Brown, Crippen, Devlin, Farrell, Gage, Hager, Hammond, Harding, Harp, Himsl, Hofman, Jenkins, Keating, Lynch, McLane, Meyer, Nathe, Noble, Pinsonneault, Pipinich, Rasmussen, Severson, Stimatz, Story, Svrcek, Thayer, Tveit, Williams, Mr. President.  
Total 36

Noes: Boylan, Eck, Jacobson, Jergeson, Manning, Mazurek, Norman, Regan, Van Valkenburg, Vaughn, Walker, Weeding, Yellowtail.  
Total 13

Excused: Halligan.  
Total 1

Absent or not voting: None.  
Total 0

Senator Gage moved the committee rise and report and beg leave to sit again. Motion carried. Committee arose. Senate resumed, Mr. President in the chair. Chairman Harp moved the adoption of the committee report. Report adopted.

**THIRD READING OF BILLS**

The following bill having been read three several times, title and history agreed to, was disposed of in the following manner:

**HB 2** concurred in by the following vote:

Ayes: Abrams, Aklestad, Anderson, Beck, Bengtson, Bishop, Blaylock, Brown, Crippen, Devlin, Farrell, Gage, Hager, Hammond, Harding, Harp, Himsl, Hofman, Jenkins, Keating, Lynch, McLane, Meyer, Nathe, Noble, Pipinich, Rasmussen, Severson, Stimatz, Story, Svrcek, Thayer, Tveit, Williams, Mr. President.  
Total 35

Noes: Boylan, Eck, Halligan, Jacobson, Jergeson, Manning, Mazurek, Norman, Pinsonneault, Regan, Van Valkenburg, Vaughn, Walker, Weeding, Yellowtail.  
Total 15

Paired: Halligan, Aye; Thayer, No.

Excused: Halligan.  
Total 1

Absent or not voting: None.  
Total 0

### MOTIONS

Committee meetings were announced by committee chairmen.

Senator Gage moved that the Senate recess until 4:30 p.m. Senate recessed at 2:26 p.m.

Senate reconvened at 4:30 p.m., Mr. President in the chair.

### MESSAGES FROM THE OTHER HOUSE

**HB 2** - House suspended the rules to allow the speaker to appoint a free conference committee to meet with a like committee from the Senate on HB 2, requesting the Senate to do likewise. The speaker appointed:

Representative Harper, chairman  
Representative Driscoll  
Representative Glaser

### MOTIONS

**HB 2** - Senator Gage moved that the president be authorized to appoint a free conference committee to meet with a like committee from the House on HB 2. Motion carried. The president appointed:

Senator Aklestad, chairman  
Senator Thayer  
Senator Norman

### ANNOUNCEMENTS

Committee meetings were announced by committee chairmen.

Senator Gage moved that the Senate adjourn until 8 a.m., Friday, May 25, 1990. Motion carried.

Senate adjourned at 4:32 p.m.

JACK E. GALT  
President of the Senate

JOHN W. LARSON  
Secretary of the Senate





## FIFTH LEGISLATIVE DAY

Helena, Montana  
May 25, 1990

Senate Chambers  
State Capitol

Senate convened at 8 a. m., Mr. President in the chair. Invocation by Chaplain Banks. Pledge of allegiance to the flag.

Roll call. All members present except Halligan, excused. Quorum present.

Mr. President: We, your Committee on Bills and Journal, having examined the daily journal for the fourth legislative day, find the same to be correct.

Anderson, chairman

### REPORTS OF STANDING COMMITTEES

FINANCE AND CLAIMS (Story, chairman) 5/24/90  
HB 6, be concurred in. Report adopted.

LEGISLATIVE ADMINISTRATION (Rasmussen, chairman) 5/25/90  
Recommend termination of employment of the following attaches as of 5 p.m.  
5/24/90:

Keith Herrin, Mike Hill, Rob Werner .....Pages

Recommend employment of the following attaches as of 8 a.m., 5/25/90:

Bev Shelley, Lincoln Dziekonski .....Pages

Report adopted.

### SECOND READING OF BILLS (COMMITTEE OF THE WHOLE)

Senator Gage moved that the Senate resolve itself into a committee of the whole for the consideration of business on second reading. Motion carried. Senator Lynch in the chair.

Mr. President: We, your Committee of the Whole having had under consideration business on second reading, recommend as follows:

SB 3 - Senator Boylan moved that SB 3 be amended as follows:

1. Page 39, lines 1 through 3.  
Strike: section 30 in its entirety  
Renumber: subsequent sections

2. Page 39, line 5.  
Strike: "30, 32"  
Insert: "31"

3. Page 39, line 14.  
Strike: "amended"  
Insert: "affected"

Amendment adopted unanimously.

Senator Boylan moved that SB 3 as amended do pass. Motion failed by the following vote:

Ayes: Aklestad, Anderson, Beck, Bengtson, Boylan, Crippen, Devlin, Gage, Hager, Hammond, Harp, Hofman, Jenkins, Keating, Lynch, McLane, Meyer, Nathe, Noble, Norman, Pinsoneault, Story, Yellowtail.

Total 23

Noes: Abrams, Bishop, Blaylock, Brown, Eck, Farrell, Harding, Himsl, Jacobson, Jergeson, Manning, Mazurek, Pipinich, Rasmussen, Regan, Severson, Stimatz, Svrcek, Thayer, Tveit, Van Valkenburg, Vaughn, Walker, Weeding, Williams, Mr. President.

Total 26

Excused: Halligan.

Total 1

Absent or not voting: None.

Total 0

Senator Farrell moved that SB 3 as amended be indefinitely postponed. Motion carried by the following vote:

Ayes: Abrams, Aklestad, Bengtson, Bishop, Blaylock, Brown, Crippen, Devlin, Farrell, Harding, Himsl, Jergeson, Manning, Mazurek, Pipinich, Rasmussen, Regan, Severson, Stimatz, Svrcek, Thayer, Tveit, Van Valkenburg, Vaughn, Walker, Weeding, Williams, Yellowtail, Mr. President.

Total 29

Noes: Anderson, Beck, Boylan, Eck, Gage, Hager, Hammond, Harp, Hofman, Jacobson, Jenkins, Keating, Lynch, McLane, Meyer, Nathe, Noble, Pinsoneault, Story.

Total 19

Excused: Halligan.

Total 1

Absent or not voting: Norman.

Total 1

**HB 6** - Senator Story moved that HB 6 be concurred in. Motion carried unanimously, 49-0.

Senator Gage moved the committee rise and report and beg leave to sit again. Motion carried. Committee arose. Senate resumed, Mr. President in the chair. Chairman Lynch moved the adoption of the committee report. Report adopted.

### THIRD READING OF BILLS

The following bill having been read three several times, title and history agreed to, was disposed of in the following manner:

**HB 6** concurred in by the following vote:

Ayes: Abrams, Aklestad, Anderson, Beck, Bengtson, Bishop, Blaylock, Brown, Crippen, Devlin, Eck, Farrell, Gage, Hager, Halligan, Hammond, Harding, Harp, Himsl, Hofman, Jacobson, Jergeson, Keating, Lynch, Manning, Mazurek, McLane, Meyer, Nathe, Noble, Norman, Pinsoneault, Pipinich, Rasmussen, Regan, Severson, Stimatz, Story, Svrcek, Thayer, Tveit, Van Valkenburg, Vaughn, Walker, Weeding, Williams, Yellowtail, Mr. President.  
Total 47

Noes: Boylan, Jenkins.  
Total 2

Excused: Halligan.  
Total 1

Absent or not voting: None.  
Total 0

### MOTIONS

Committee meetings were announced by committee chairmen.

Senator Gage moved that the Senate recess until 10 a.m. Motion carried.  
Senate recessed at 8:44 a.m.

Senate reconvened at 10 a.m., Mr. President in the chair.

Committee meetings were announced by committee chairmen.

Senator Gage moved that the Senate recess until 1 p.m. Motion carried.  
Senate recessed at 10:05 a.m.

Senate reconvened at 1 p.m., Mr. President in the chair.

Senator Gage moved that the Senate recess until 2:45 p.m. Motion carried.  
Senate recessed at 1:02 p.m.

Senate reconvened at 2:45 p.m., Mr. President in the chair.

Senator Gage reported on the progress of various unsettled issues.

Senator Gage moved that the Senate recess until 3:45 p.m. Motion carried.  
Senate recessed at 2:47 p. m.

Senate reconvened at 3:45 p.m., Mr. President in the chair.

Senator Gage moved that the Senate recess until 4:15 p.m. Motion carried.  
Senate recessed at 3:46 p.m.

Senate reconvened at 4:15 p.m., Mr. President in the chair.

### REPORTS OF SELECT COMMITTEES

Free Conference Committee Report  
on Senate Bill 1  
Report No. 1, May 25, 1990

Mr. President and Mr. Speaker:

We, your Free Conference Committee on Senate Bill 1, met and considered:

House Committee on Taxation's report of May 23, 1990 (green sheet) that amended Senate Bill 1 (reference copy — salmon).

We recommend that Senate Bill 1 (reference copy — salmon) be amended as follows:

[adopted May 25 at 14:30]

1. Title, line 8.

Following: "~~PRODUCTION;~~"

Insert: "GENERALLY"

Strike: "~~STATE AND~~"

2. Title, line 11.

Following: "~~PRODUCTION;~~"

Insert: "IMPOSING A REVENUE NEUTRAL LOCAL GOVERNMENT SEVERANCE TAX RATE ON NONWORKING INTEREST OWNERS OF OIL AND NATURAL GAS PRODUCTION;"

3. Title, line 20.

Following: "~~WELLS;~~"

Insert: "CLARIFYING THE APPLICATION OF THE LOCAL GOVERNMENT SEVERANCE TAX TO NATURAL GAS STRIPPER WELLS; CLARIFYING THE LOCAL GOVERNMENT SEVERANCE TAX ON OIL STRIPPER WELLS;"

4. Title, line 23.

Following: "~~PROVIDING~~"

Insert: "FOR"

5. Title, line 24.

Following: "~~COMMITTEE~~"

Insert: "AND FOR REPORTS TO THE LEGISLATURE BY THE DEPARTMENT OF REVENUE"

6. Pages 2 through 26.

Strike: everything following the enacting clause

Insert: "Section 1. Section 15-36-101, MCA, is amended to read:

"15-36-101. Definitions and rate of tax — state severance tax — local government severance tax — assessment of nonworking interest owner — exemption. (1) Every person engaging in or carrying on the business of producing petroleum, other mineral or crude oil, or natural gas within this state or engaging in or carrying on the business of owning, controlling, managing, leasing, or operating within this state any well or wells from which any merchantable or marketable petroleum, other mineral or crude oil, or natural gas is extracted or produced ~~sufficient in quantity to justify the marketing of the same must~~ shall, except as provided in 15-36-121, each year when engaged in or carrying on the business in this state pay to the department of revenue a state severance tax for the exclusive use and benefit of the state of Montana plus a local government severance tax in lieu of a tax on net proceeds for the exclusive use and benefit of local government. ~~The Except as provided in subsection (3), the state severance tax and the local government severance tax are computed at the following rates as follows:~~



(a) except as provided in subsections (1)(b), (1)(c), ~~and (1)(d), and (1)(e)~~, a 5% ~~of state severance tax on~~ the total gross ~~taxable~~ value of all the petroleum and other mineral or crude oil produced by the person, plus the local government severance tax of 8.4% on ~~production the gross taxable value of all the petroleum and other mineral or crude oil produced by the person~~ other than interim production and new production, from each lease or unit; but in determining the amount of ~~the state severance tax and local government severance tax~~, there must be excluded from consideration all petroleum or other crude or mineral oil produced and used by the person during the year in connection with his operations in prospecting for, developing, and producing the petroleum or crude or mineral oil;

(b) a 2.65% ~~of state severance tax on~~ the total gross ~~taxable~~ value of all natural gas produced ~~by the person~~, plus the local government severance tax of 15.25% on ~~the total gross taxable value of all natural gas production produced by the person~~ other than interim production or new production, from each lease or unit; but in determining the amount of ~~the state severance tax and the local government severance tax~~, there must be excluded from consideration all gas produced and used by the person during the year in connection with his operations in prospecting for, developing, and producing the gas or petroleum or crude or mineral oil; and there must also be excluded from consideration all gas, including carbon dioxide gas, recycled or reinjected into the ground;

(c) a 2.5% ~~of state severance tax on~~ the total gross ~~taxable~~ value of the incremental petroleum and other mineral or crude oil produced ~~by the person~~, plus the local government severance tax of ~~4.2%~~ 5% on ~~production the total gross taxable value of the incremental petroleum and other mineral or crude oil produced by the person~~ other than interim production and new production, from each lease or unit in a tertiary recovery project after July 1, 1985. For purposes of this section, a tertiary recovery project must meet the following requirements:

(i) the project must be approved as a tertiary recovery project by the department of revenue. The approval may be extended only after notice and hearing in accordance with Title 2, chapter 4.

(ii) the property to be affected by the project must be adequately delineated according to the specifications required by the department; and

(iii) the project must involve the application of one or more tertiary recovery methods that can reasonably be expected to result in an increase, determined by the department to be significant in light of all the facts and circumstances, in the amount of crude oil which may potentially be recovered. For ~~the purpose purposes~~ of this section, tertiary recovery methods include but are not limited to:

(A) miscible fluid displacement;

(B) steam drive injection;

(C) micellar/emulsion flooding;

(D) in situ combustion;

- (E) polymer augmented water flooding;
- (F) cyclic steam injection;
- (G) alkaline or caustic flooding;
- (H) carbon dioxide water flooding;
- (I) immiscible carbon dioxide displacement; or
- (J) any other method approved by the department as a tertiary recovery method.

(d) except as provided in 15-36-121(2), a 3% of state severance tax on the total gross taxable value of all the petroleum and other mineral or crude oil production produced by the person after the first 5 barrels, plus the local government severance tax of 4.2% on all production other than interim production and new production produced by from a stripper well, as defined in 15-36-121, that produces more than 5 barrels a day during the period beginning April 1, 1989, and ending March 31, 1991;

(e) a 5% local government severance tax on the total gross taxable value of all petroleum and other mineral or crude oil produced by the person other than interim and new production produced by a stripper well, as defined in 15-36-121.

(2) For purposes of this section, the term "incremental petroleum and other mineral or crude oil" means the amount of oil, as determined by the department of revenue, to be in excess of what would have been produced by primary and secondary methods. The determination arrived at by the department must be made only after notice and hearing and shall specify through the life of a tertiary project, calendar year by calendar year, the combined amount of primary and secondary production that must be used to establish the incremental production from each lease or unit in a tertiary recovery project.

(3) (a) A local government severance tax is imposed on the gross value paid in cash or apportioned in kind to a nonworking interest owner by the operator or producer of extracted marketable petroleum, other mineral or crude oil, or natural gas subject to local government severance taxes imposed under this chapter. The local government severance tax on nonworking interest owners is computed at the following rates:

(i) 12.5% on the gross value paid in cash or apportioned in kind to a nonworking interest owner by the operator or producer of extracted marketable petroleum and other mineral or crude oil;

(ii) 15.25% on the gross value paid in cash or apportioned in kind to a nonworking interest owner by the operator or producer of extracted or marketable natural gas.

(b) The amounts paid or apportioned in kind to nonworking interest owners are exempt from the local government severance taxes imposed under 15-36-121(3) and (4) and under subsections (1)(a) through (1)(e) of this section.

(3)(4) Nothing in this part may be construed as requiring laborers or

employees hired or employed by any person to drill any oil or natural gas well or to work in or about any oil or natural gas well or prospect or explore for or do any work for the purpose of developing any petroleum, ~~or~~ other mineral or crude oil, or natural gas to pay the severance tax, nor may work done or the drilling of a well or wells for the purpose of prospecting or exploring for petroleum, ~~or~~ other mineral or crude ~~oils~~ oil, or natural gas or for the purpose of developing them be considered to be the engaging in or carrying on of the business. If, in the doing of any work, in the drilling of any oil or natural gas well, or in prospecting, exploring, or development work, any merchantable or marketable petroleum, ~~or~~ other mineral or crude oil, or natural gas in excess of the quantity required by the person for carrying on the operation is produced sufficient in quantity to justify the marketing of the petroleum, ~~or~~ other mineral or crude oil, or natural gas, the work, drilling, prospecting, exploring, or development work is considered to be the engaging in and carrying on of the business of producing petroleum, ~~or~~ other mineral or crude oil, or natural gas within this state within the meaning of this section.

(4)(5) Every person required to pay the state or local government severance tax under this section shall pay the tax in full for his own account and for the account of each of the other owner or owners of the gross proceeds in value or in kind of all the marketable petroleum or other mineral or crude oil or natural gas extracted and produced, including owner or owners of working interest, royalty interest, overriding royalty interest, carried working interest, net proceeds interest, production payments, and all other interest or interests owned or carved out of the total gross proceeds in value or in kind of the extracted marketable petroleum or other mineral or crude oil or natural gas, except that any of the interests that are owned by the federal, state, county, or municipal governments are exempt from taxation under this chapter. Unless otherwise provided in a contract or lease, the pro rata share of any royalty owner or owners will be deducted from any settlements under the lease or leases or division of proceeds orders or other contracts.

(6) For purposes of this section, the following definitions apply:

(a) "Gross taxable value" means the gross value of the product as determined in 15-36-103 less the gross value paid in cash or apportioned in kind to a nonworking interest owner by the operator or producer of extracted marketable petroleum, other mineral or crude oil, or natural gas.

(b) "Nonworking interest owner" means any interest owner who does not share in the development and operation costs of the lease or unit. (Subsection (1)(d) terminates on occurrence of contingency—sec. 7, Ch. 656, L. 1987.)"

Section 2. Section 15-36-112, MCA, is amended to read:

"15-36-112. Disposition of oil and gas state and local government severance taxes — calculation of unit value for local government severance tax. (1) Each year the department of revenue shall determine the amount of tax collected under this chapter from within each school district taxing unit.

(2) For purposes of the distribution of local government severance taxes collected under 15-36-101 this chapter, the department shall determine



the unit value of oil and gas for each ~~school district~~ taxing unit as follows:

(a) The unit value for petroleum and other mineral or crude oil for each ~~district~~ taxing unit is the quotient obtained by dividing the net proceeds taxes calculated on petroleum or mineral or crude oil produced in that ~~district~~ taxing unit in calendar year 1988 by the number of barrels of petroleum or other mineral or crude oil produced in that ~~district~~ taxing unit during 1988, excluding new and interim production.

(b) The unit value for natural gas is the quotient obtained by dividing the net proceeds taxes calculated on natural gas produced in that ~~district~~ taxing unit in calendar year 1988 by the number of cubic feet of natural gas produced in that ~~district~~ taxing unit during 1988, excluding new and interim production.

(3) The state and local government severance taxes collected under this chapter are allocated as follows:

(a) The local government severance tax is statutorily appropriated, as provided in 17-7-502, for allocation to the county for distribution as provided in subsection (4)(a)(ii);

~~(b) Any amount not allocated to the county under subsection (3)(a)~~ The state severance tax is allocated to the state general fund.

(4) (a) For the purpose of distribution of the local government severance tax, the department shall adjust the unit value determined under this section according to the ratio that the local government severance taxes collected during the quarters to be distributed plus accumulated interest earned by the state and penalties and interest on delinquent local government severance taxes bears to the total liability for local government severance taxes for the quarters to be distributed. The taxes must be calculated and distributed as follows:

(i) By November 30 of each year, the department shall calculate and distribute to each eligible county the amount of local government severance tax, determined by multiplying unit value as adjusted in this subsection (4)(a) times the units of production on which the local government severance tax was owed during the calendar quarters ending March 31 and June 30 of the preceding calendar year.

(ii) By May 31 of each year, the department shall calculate and distribute to each eligible county the amount of local government severance tax, determined by multiplying unit value as adjusted in this subsection (4)(a) times the units of production on which the local government severance tax was owed during the 2 calendar quarters immediately following those quarters referred to in subsection (4)(a)(i).

(b) Any amount by which the total tax liability exceeds or is less than the total distributions determined in subsections (4)(a)(i) and (4)(a)(ii) must be calculated and distributed in the following manner:

(i) The excess amount or shortage must be divided by the total ~~units of production to obtain the tax value per unit of production~~ distribution determined for that period to obtain an excess or shortage percentage.

(ii) ~~The tax value per unit of production must be multiplied by the units~~



~~of production in that taxable period in each school district that had production in that period, and this amount must be added to or subtracted from the distribution to each respective district. The excess percentage must be multiplied by the distribution to each taxing unit, and this amount must be added to the distribution to each respective taxing unit.~~

(iii) The shortage percentage must be multiplied by the distribution to each taxing unit, and this amount must be subtracted from the distribution to each respective taxing unit.

(5) The county treasurer shall distribute the money received under subsection ~~(3)(a)~~ (4) to the taxing ~~jurisdictions~~ units that levied mills in fiscal year 1990 against calendar year 1988 production during fiscal year 1989 in the same manner that all other property tax proceeds were distributed during fiscal year ~~1989~~ 1990 in the taxing ~~jurisdiction~~ unit, except that no distribution may be made to a municipal taxing ~~jurisdiction~~ unit."

Section 3. Section 15-36-121, MCA, is amended to read:

"15-36-121. Exemption from state severance tax — imposition of local government severance tax. (1) It is the public policy of this state to promote a sufficient supply of natural gas to provide for the residents of this state, to lessen Montana's dependence on imported natural gas, and to encourage the exploration for and development and production of natural gas, petroleum, and other mineral and crude oil within the state.

(2) All new production, as defined in 15-23-601, from a well during the 24 months immediately following the date of notification to the department of revenue that an oil well is flowing or being pumped or that a gas well has been connected to a gathering or distribution system is exempt from all of the state severance tax imposed by 15-36-101, provided the notification was made after March 31, 1987, and before July 1, 1991.

(3) All the natural gas produced from any well that has produced 60,000 cubic feet or less of natural gas a day for the calendar year prior to the current year shall be taxed as provided in this section. Production must be determined by dividing the amount of production from a lease or unitized area for the year prior to the current calendar year by the number of producing wells in the lease or unitized area and by dividing the resulting quotient by 365. The first 30,000 cubic feet of average daily production per well is exempt from all of the state severance tax imposed by 15-36-101. The first 30,000 cubic feet of average daily production per well is subject to a local government severance tax of 10%. Everything over 30,000 cubic feet of gas produced is taxed at 1.59% plus a local government severance tax of ~~7.625%~~ 10%.

(4) The first 5 barrels of average daily production from a stripper well are exempt from all of the state severance tax imposed by 15-36-101, except but not from the local government severance tax.

(5) For the purposes of this section, "stripper well" means a well that produces less than 10 barrels per day, determined by dividing the amount of production from a lease or unitized area for the year prior to the current calendar year by the number of producing wells in the lease or unitized area, and by dividing the resulting quotient by 365.

(6) Notwithstanding the provisions of subsections (2) through (4), all reporting requirements under the state severance tax remain in effect. (Subsections (2) and (4) terminate on occurrence of contingency—sec. 7, Ch. 656, L. 1987.)”

Section 4. Section 20-9-366, MCA, is amended to read:

“20-9-366. (Effective July 1, 1990) Definitions. As used in 20-9-366 through 20-9-369, the following definitions apply:

(1) “County mill value per elementary ANB” or “county mill value per high school ANB” means the sum of the current taxable valuation of all property in the county plus the taxable value of oil and gas net proceeds determined under 15-23-607(4) for production occurring after March 31, 1990, plus the taxable value of coal gross proceeds determined under 15-23-703(3) plus all the taxable value of ~~netax~~ nonlevy revenue for the support of schools, other than Public Law 81-874 funds, divided by 1,000, with the quotient divided by the total county elementary ANB count or the total county high school ANB count used to calculate the elementary school districts’ and high school districts’ current year foundation program amounts. The taxable value of nonlevy revenue for the purpose of computing guaranteed tax base aid for schools is the amount of ~~netax~~ nonlevy revenue received by a district in the previous year, including for fiscal year 1991 the revenue received in fiscal year 1990 from the net proceeds taxation of oil and natural gas and including for fiscal year 1992 and thereafter the local government severance tax, divided by the number of mills levied by the district in the previous year, multiplied by 1,000; divided by 1,000, with the quotient divided by the total county elementary ANB count or the total county high school ANB count used to calculate the elementary school districts’ and high school districts’ current year foundation program amounts.

(2) “District mill value per ANB” means the current taxable valuation of all property in the district plus the taxable value of oil and gas net proceeds determined under 15-23-607(4) for production occurring after March 31, 1990, plus the taxable value of coal gross proceeds determined under 15-23-703(3) plus all the taxable value of ~~netax~~ nonlevy revenue for the support of schools, other than Public Law 81-874 funds, divided by 1,000, with the quotient divided by the ANB count of the district used to calculate the district’s current year foundation program schedule amount. The taxable value of nonlevy revenue for the purpose of computing guaranteed tax base aid for schools is the amount of ~~netax~~ nonlevy revenue received by a district in the previous year, including for fiscal year 1991 the revenue received in fiscal year 1990 from the net proceeds taxation of oil and natural gas and including for fiscal year 1992 and thereafter the local government severance tax, divided by the number of mills levied by the district in the previous year, multiplied by 1,000; divided by 1,000, with the quotient divided by the ANB count of the district used to calculate the district’s current year foundation program schedule amount.

(3) “Guaranteed overschedule general fund budget” means that portion of a district’s general fund budget in excess of the foundation program amount for the district, as provided in 20-9-316 through 20-9-321, but not exceeding 135% of the district’s foundation program amount, and which excess is authorized under the provisions of 20-9-145 and 20-9-353.

(4) "Statewide mill value per elementary ANB" or "statewide mill value per high school ANB" means the sum of the current taxable valuation of all property in the state plus the taxable value of oil and gas net proceeds determined under 15-23-607(4) for production occurring after March 31, 1990, plus the taxable value of coal gross proceeds determined under 15-23-703(3) plus all the taxable value of ~~non~~tax nonlevy revenue for the support of schools, other than Public Law 81-874 funds, divided by 1,000, with the quotient divided by the total state elementary ANB count or the total state high school ANB count used to calculate the elementary school districts' and high school districts' current year foundation program amounts. The taxable value of nonlevy revenue for the purpose of computing guaranteed tax base aid for schools is the amount of ~~non~~tax nonlevy revenue received by a district in the previous year, including for fiscal year 1991 the revenue received in fiscal year 1990 from the net proceeds taxation of oil and natural gas and including for fiscal year 1992 and thereafter the local government severance tax, divided by the number of mills levied by the district in the previous year, multiplied by 1,000; ~~divided by 1,000, with the quotient divided by the total state elementary ANB count or the total state high school ANB count used to calculate the elementary school districts' and high school districts' current year foundation program amounts.~~"

NEW SECTION. Section 5. Revenue oversight study — reports by department of revenue. (1) The revenue oversight committee shall study the new methods of taxing coal, oil, and natural gas production that were mandated by House Bill No. 28, Special Laws of June 1989, and amended by [this act]. The committee shall report its findings to the 52nd legislature.

(2) The department of revenue shall report to the 52nd legislature and to the 53rd legislature on any conversion of nonworking interest owner taxpayer status to operator taxpayer status.

NEW SECTION. Section 6. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 7. Effective date. [This act] is effective on passage and approval.

NEW SECTION. Section 8. Retroactive applicability. [Sections 1 and 3] apply retroactively, within the meaning of 1-2-109, to all local government severance taxes on oil and natural gas produced after December 31, 1988."

And that this conference committee report be adopted.

For the Senate  
Gage, Chairman  
Crippen  
Mazurek

For the House  
Schye, Chairman  
Kadas  
Patterson



**SECOND READING OF BILLS  
(COMMITTEE OF THE WHOLE)**

Senator Gage moved that the Senate resolve itself into a committee of the whole for the consideration of business on second reading. Motion carried. Senator Lynch in the chair.

Mr. President: We, your Committee of the Whole having had under consideration business on second reading, recommend as follows:

**SB 1** free conference committee report - Senator Gage moved that the free conference committee report on SB 1 be adopted. Report adopted 46-3 with Boylan, Regan, and Yellowtail voting no.

Senator Gage moved the committee rise and report and beg leave to sit again. Motion carried. Committee arose. Senate resumed, Mr. President in the chair. Chairman Lynch moved the adoption of the committee report. Report adopted.

**THIRD READING OF BILLS**

The following bill having been read three several times, title and history agreed to, was disposed of in the following manner:

**SB 1** free conference committee report adopted by the following vote:

Ayes: Abrams, Aklestad, Anderson, Beck, Bengtson, Bishop, Blaylock, Brown, Crippen, Devlin, Eck, Farrell, Gage, Hager, Halligan, Hammond, Harding, Harp, Himsl, Hofman, Jacobson, Jenkins, Jergeson, Keating, Lynch, Manning, Mazurek, McLane, Meyer, Nathe, Noble, Norman, Pinsoneault, Pipinich, Rasmussen, Severson, Stimatz, Story, Svrcek, Thayer, Tveit, Van Valkenburg, Vaughn, Walker, Weeding, Williams, Mr. President.  
Total 47

Noes: Boylan, Regan, Yellowtail.  
Total 3

Paired: Halligan, Aye; Regan, No.

Excused: Halligan.  
Total 1

Absent or not voting: None.  
Total 0

**MOTIONS**

Senator Gage moved the Senate recess until 7 p.m. Motion carried. Senate recessed at 4:55 p.m.

Senate reconvened at 7 p.m., Mr. President in the chair.

It was announced that printing would require another hour to prepare the free conference committee report.

Senate stood at ease.



May 25, 1990

Senate resumed at 8 p.m., Mr. President in the chair.

## REPORTS OF STANDING COMMITTEES

### BILLS AND JOURNAL (Anderson, chairman)

5/25/90

Examined by sponsor (Gage) and found to be correct: SB 1

Signed by president at 1:30 p.m., 5/25/90: HB 1

Signed by president at 2:58 p.m., 5/25/90: HB 6

Signed by president at 7:53 p.m., 5/25/90: SB 1

Signed by speaker at 8 p.m., 5/25/90: SB 1

Delivered to Secretary of State at 10:45 a.m., 5/29/90: SR 1, SR 2, SR 3,  
SR 4, SR 5

Delivered to Governor at 10:39 a.m., 5/29/90: SB 1

## REPORTS OF SELECT COMMITTEES

Free Conference Committee  
on House Bill 2  
Report No. 1, May 25, 1990

Mr. President and Mr. Speaker:

We, your Free Conference Committee on House Bill 2, met and considered:

We recommend that House Bill 2 (reference copy — salmon) be amended as follows:

1. Title, page 1, line 23.

Following: "2020;"

Strike: remainder of line 23 through "DATE" on page 2, line 13

Insert: "PROVIDING MONEY FOR INITIAL OPERATING EXPENSES FOR CLAIMS FOR INJURIES RESULTING FROM ACCIDENTS THAT OCCUR ON OR AFTER JULY 1, 1990; AUTHORIZING LOANS FROM RESERVES OF THE STATE FUND FROM PREMIUMS ATTRIBUTABLE TO WAGES PAYABLE ON OR AFTER JULY 1, 1990, FOR PAYMENT OF CLAIMS FOR INJURIES RESULTING FROM ACCIDENTS THAT OCCURRED BEFORE JULY 1, 1990; ESTABLISHING SEPARATE FUNDING AND ACCOUNTS FOR CLAIMS REPRESENTED BY THE UNFUNDED LIABILITY AND CLAIMS REPRESENTED BY NEW BUSINESS; PROVIDING FOR INCREASED LEGISLATIVE OVERSIGHT OF THE STATE FUND; CLARIFYING THE STATE FUND'S DUTIES; PROVIDING THAT THE STATE FUND MAY NOT ISSUE BONDS; ENSURING COMPLIANCE WITH THE MANDATE THAT THE STATE FUND SET PREMIUMS FOR NEW BUSINESS AT A LEVEL SUFFICIENT TO ENSURE SOLVENCY; REMOVING THE TERMINATION OF THE WORKERS' COMPENSATION PAYROLL TAX; PROVIDING A SPECIAL METHOD OF OFFERING NEGOTIATED SETTLEMENTS FOR CLAIMS ARISING PRIOR TO JULY 1, 1990; PROVIDING FOR COORDINATION OF THIS ACT WITH THE OCCUPATIONAL DISEASE ACT OF MONTANA; ALLOWING THE STATE FUND TO REQUEST PROPOSALS FOR THE SETTLEMENTS OF CLAIMS ARISING PRIOR TO JULY 1, 1990; APPROPRIATING MONEY TO THE DEPARTMENT OF REVENUE FOR ADMINISTERING COLLECTION OF THE PAYROLL TAX; AMENDING SECTIONS 33-1-102, 39-71-116, 39-71-2311, 39-71-2313 THROUGH 39-71-2316, 39-71-2321, 39-71-2323,

39-71-2501 THROUGH 39-71-2504, MCA; AMENDING SECTION 10, CHAPTER 664, LAWS OF 1987; AND PROVIDING EFFECTIVE DATES AND AN APPLICABILITY DATE"

2. Page 3, line 4 through page 7, line 15.

Strike: everything after the enacting clause

Insert: "NEW SECTION. Section 1. Purpose of separation of state fund liability as of July 1, 1990, and of separate funding of claims before and on or after that date. (1) An unfunded liability exists in the state fund. It has existed since at least the mid-1980s and has grown each year. There have been numerous attempts to solve the problem by legislation and other methods. These attempts have alleviated the problem somewhat, but the problem has not been solved.

(2) The legislature has determined that it is necessary to the public welfare to make workers' compensation insurance available to all employers through the state fund as the insurer of last resort. In making this insurance available, the state fund has incurred the unfunded liability. The legislature has determined that the most cost-effective and efficient way to provide a source of funding for and to ensure payment of the unfunded liability and the best way to administer the unfunded liability is to: (a) separate the liability of the state fund on the basis of whether a claim is for an injury resulting from an accident that occurred before July 1, 1990, or an accident that occurs on or after that date;

(b) extend the payroll tax imposed by 39-71-2503 and dedicate the tax money first to the repayment of loans given under [section 4] and then to the direct payment of the costs of administering and paying claims for injuries from accidents that occurred before July 1, 1990.

(3) The legislature further determines that in order to prevent the creation of a new unfunded liability with respect to claims for injuries for accidents that occur on or after July 1, 1990, certain duties of the state fund should be clarified and legislative oversight of the state fund should be increased.

NEW SECTION. Section 2. Separate payment structure and sources for claims for injuries resulting from accidents that occurred before July 1, 1990, and on or after July 1, 1990 — spending limit. (1) Premiums paid to the state fund based upon wages payable before July 1, 1990, may be used only to administer and pay claims for injuries resulting from accidents that occurred before July 1, 1990. Except as provided in [section 4] and 39-71-2316(9), premiums paid to the state fund based upon wages payable on or after July 1, 1990, may be used only to administer and pay claims for injuries resulting from accidents that occur on or after July 1, 1990.

(2) The state fund shall:

(a) determine the cost of administering and paying claims for injuries resulting from accidents that occurred before July 1, 1990, and separately determine the cost of administering and paying claims for injuries resulting from accidents that occur on or after July 1, 1990;

(b) keep adequate and separate accounts of the costs determined under subsection (2)(a); and

(c) fund administrative expenses and benefit payments for claims for injuries resulting from accidents that occurred before July 1, 1990, and claims for injuries resulting from accidents that occur on or after July 1, 1990, separately from the sources provided by law.

(3) The state fund may not spend more than \$3 million a year to administer claims for injuries resulting from accidents that occurred before July 1, 1990.

NEW SECTION. Section 3. Initial operating expenses for claims for injuries resulting from accidents that occur on or after July 1, 1990. During the fiscal year beginning July 1, 1990, the state fund shall transfer \$12 million from money deposited under 39-71-2321 in the state fund before July 1, 1990, to the account created by 39-71-2321 for the administration and payment of claims for injuries resulting from accidents that occur on or after July 1, 1990.

NEW SECTION. Section 4. Use of payroll tax proceeds — loans. Taxes collected under 39-71-2503 may be used only to administer and pay claims for injuries resulting from accidents that occurred before July 1, 1990, including the cost of repaying loans given under this section. If the state fund determines that, for the next 1 or more years following the date of the determination, the tax revenue, together with other funds in the account required by 39-71-2321 for claims for injuries resulting from accidents that occurred before July 1, 1990, will be insufficient to administer and pay those claims, the state fund, through its board of directors, may advise the board of investments that additional funding is necessary. The board of investments may loan, from reserves accumulated from premiums paid to the state fund based upon wages payable on or after July 1, 1990, amounts necessary for payment of claims for injuries resulting from accidents that occurred before July 1, 1990. The loans must bear interest at 7 1/2%.

NEW SECTION. Section 5. Legislative audit of state fund. The legislative auditor shall annually conduct or have conducted a financial and compliance audit of the state fund, including its operations relating to claims for injuries resulting from accidents that occurred before July 1, 1990. The audit must include evaluations of the claims reservation process, the amounts reserved, and the current report of the state fund's actuary. The evaluations may be conducted by persons appointed under 5-13-305. Audit and evaluation costs are an expense of and must be paid by the state fund and must be allocated between those claims for injuries resulting from accidents that occurred before July 1, 1990, and those claims for injuries resulting from accidents that occur on or after that date.

Section 6. Section 39-71-116, MCA, is amended to read:

"39-71-116. Definitions. Unless the context otherwise requires, words and phrases employed in this chapter have the following meanings:

(1) "Administer and pay" includes all actions by the state fund under the Workers' Compensation Act and the Occupational Disease Act of Montana necessary to the investigation, review, and settlement of claims; payment of benefits; setting of reserves; furnishing of services and facilities; and utilization of actuarial, audit, accounting, vocational rehabilitation, and legal services.



~~(1)~~(2) "Average weekly wage" means the mean weekly earnings of all employees under covered employment, as defined and established annually by the Montana department of labor and industry. It is established at the nearest whole dollar number and must be adopted by the department prior to July 1 of each year.

~~(2)~~(3) "Beneficiary" means:

(a) a surviving spouse living with or legally entitled to be supported by the deceased at the time of injury;

(b) an unmarried child under the age of 18 years;

(c) an unmarried child under the age of 22 years who is a full-time student in an accredited school or is enrolled in an accredited apprenticeship program;

(d) an invalid child over the age of 18 years who is dependent upon the decedent for support at the time of injury;

(e) a parent who is dependent upon the decedent for support at the time of the injury (however, such a parent is a beneficiary only when no beneficiary, as defined in subsections ~~(2)(a)~~ ~~(3)(a)~~ through ~~(2)(d)~~ ~~(3)(d)~~ of this section, exists); and

(f) a brother or sister under the age of 18 years if dependent upon the decedent for support at the time of the injury (however, such a brother or sister is a beneficiary only until the age of 18 years and only when no beneficiary, as defined in subsections ~~(2)(a)~~ ~~(3)(a)~~ through ~~(2)(e)~~ ~~(3)(e)~~ of this section, exists).

~~(3)~~(4) "Casual employment" means employment not in the usual course of trade, business, profession, or occupation of the employer.

~~(4)~~(5) "Child" includes a posthumous child, a dependent stepchild, and a child legally adopted prior to the injury.

~~(5)~~(6) "Days" means calendar days, unless otherwise specified.

~~(6)~~(7) "Department" means the department of labor and industry.

~~(7)~~(8) "Fiscal year" means the period of time between July 1 and the succeeding June 30.

~~(8)~~(9) "Insurer" means an employer bound by compensation plan No. 1, an insurance company transacting business under compensation plan No. 2, the state fund under compensation plan No. 3, or the uninsured employers' fund provided for in part 5 of this chapter.

~~(9)~~(10) "Invalid" means one who is physically or mentally incapacitated.

~~(10)~~(11) "Maximum healing" means the status reached when a worker is as far restored medically as the permanent character of the work-related injury will permit.

~~(11)~~(12) "Order" means any decision, rule, direction, requirement, or standard of the department or any other determination arrived at or



decision made by the department.

~~(12)~~(13) "Payroll", "annual payroll", or "annual payroll for the preceding year" means the average annual payroll of the employer for the preceding calendar year or, if the employer shall not have operated a sufficient or any length of time during such calendar year, 12 times the average monthly payroll for the current year. However, an estimate may be made by the department for any employer starting in business if no average payrolls are available. This estimate is to be adjusted by additional payment by the employer or refund by the department, as the case may actually be, on December 31 of such current year. An employer's payroll must be computed by calculating all wages, as defined in 39-71-123, that are paid by an employer.

~~(13)~~(14) "Permanent partial disability" means a condition, after a worker has reached maximum healing, in which a worker:

(a) has a medically determined physical restriction as a result of an injury as defined in 39-71-119; and

(b) is able to return to work in the worker's job pool pursuant to one of the options set forth in 39-71-1012 but suffers impairment or partial wage loss, or both.

~~(14)~~(15) "Permanent total disability" means a condition resulting from injury as defined in this chapter, after a worker reaches maximum healing, in which a worker is unable to return to work in the worker's job pool after exhausting all options set forth in 39-71-1012.

~~(15)~~(16) The term "physician" includes "surgeon" and in either case means one authorized by law to practice his profession in this state.

~~(16)~~(17) The "plant of the employer" includes the place of business of a third person while the employer has access to or control over such place of business for the purpose of carrying on his usual trade, business, or occupation.

~~(17)~~(18) "Public corporation" means the state or any county, municipal corporation, school district, city, city under commission form of government or special charter, town, or village.

~~(18)~~(19) "Reasonably safe place to work" means that the place of employment has been made as free from danger to the life or safety of the employee as the nature of the employment will reasonably permit.

~~(19)~~(20) "Reasonably safe tools and appliances" are such tools and appliances as are adapted to and are reasonably safe for use for the particular purpose for which they are furnished.

~~(20)~~(21) "Temporary total disability" means a condition resulting from an injury as defined in this chapter that results in total loss of wages and exists until the injured worker reaches maximum healing.

~~(21)~~(22) "Year", unless otherwise specified, means calendar year."

Section 7. Section 39-71-2311, MCA, is amended to read:

"39-71-2311. Intent and purpose of plan. It is the intent and purpose of the state fund to allow employers the option to insure their liability for workers' compensation and occupational disease coverage with a mutual insurance fund. The state fund is required to insure any employer in this state requesting coverage, and it may not refuse coverage for an employer unless an assigned risk plan is established under 39-71-431 and is in effect. The state fund must be neither more nor less than self-supporting. Premium rates must be set at least annually at a level sufficient to fund ensure the adequate funding of the insurance program, including the costs of administration, benefits, and adequate reserves, during and at the end of the period for which the rates will be in effect. In determining premium rates, the state fund shall make every effort to adequately predict future costs. When the costs of a factor influencing rates are unclear and difficult to predict, the state fund shall use a prediction calculated to be more than likely to cover those costs rather than less than likely to cover those costs. Unnecessary surpluses that are created by the imposition of premiums found to have been set higher than necessary because of a high estimate of the cost of a factor or factors may be refunded by the declaration of a dividend as provided in this part. For the purpose of keeping the state fund solvent, it must implement variable pricing levels within individual rate classifications to reward an employer with a good safety record and penalize an employer with a poor safety record."

Section 8. Section 39-71-2313, MCA, is amended to read:

"39-71-2313. State compensation mutual insurance fund created. There is a state compensation mutual insurance fund known as the state fund that is a nonprofit, independent public corporation established for the purpose of allowing an option for employers to insure their liability for workers' compensation and occupational disease coverage under this chapter. ~~The state fund exists as a domestic mutual insurer as defined in 33-3-102.~~"

Section 9. Section 39-71-2314, MCA, is amended to read:

"39-71-2314. State fund ~~a mutual insurance carrier~~ — assigned risk plan. (1) ~~The state fund is a domestic mutual insurer controlled by the laws relating to the regulation of domestic mutual insurers in this state. However, the formation, incorporation, bylaws, and bonding requirements set forth in Title 33, chapter 3, do not apply to the state fund. The state fund is not a member insurer for the purposes of the insurance guaranty association established pursuant to Title 33, chapter 10, part 1.~~

(2) ~~The commissioner of insurance may not terminate the operations of the state fund based on insolvency due to the unfunded liability that is recognized to exist on the date of passage of this part.~~

(3)(1) If an assigned risk plan is established and administered pursuant to 39-71-431, the state fund is subject to the premium tax liability for insurers as provided in 33-2-705 based on earned premium and paid on revenue from the previous fiscal year.

(2) The state fund is subject to laws that generally apply to state agencies, including but not limited to Title 2, chapters 2, 3, 4 (except as provided in 39-71-2316), and 6, and Title 5, chapter 13. The state fund is not exempt from a law that applies to state agencies unless that law specifically

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exempts the state fund by name and clearly states that it is exempt from that law."

Section 10. Section 39-71-2315, MCA, is amended to read:

"39-71-2315. Management of state fund — powers and duties of the board.

(1) The management and control of the state fund is vested solely in the board.

(2) The board is vested with full power, authority, and jurisdiction over the state fund. The board may perform all acts necessary or convenient in the exercise of any power, authority, or jurisdiction over the state fund, either in the administration of the state fund or in connection with the insurance business to be carried on under the provisions of this part, as fully and completely as the governing body of a private mutual insurance carrier, in order to fulfill the objectives and intent of this part. Bonds may not be issued by the board, the state fund, or the executive director."

Section 11. Section 39-71-2316, MCA, is amended to read:

"39-71-2316. Powers of the state fund — rulemaking. For the purposes of carrying out its functions, the state fund may:

(1) insure any employer for workers' compensation and occupational disease liability as the coverage is required by the laws of this state and, in connection with the coverage, provide employers' liability insurance. The state fund may charge a minimum yearly premium to cover its administrative costs for coverage of a small employer.

(2) sue and be sued;

(3) adopt, amend, and repeal rules relating to the conduct of its business;

(4) except as provided in [section 21], enter into contracts relating to the administration of the state fund, including claims management, servicing, and payment;

(5) collect and disburse money received;

(6) adopt classifications and charge premiums for the classifications so that the state fund will be neither more nor less than self-supporting. Premium rates for classifications may only be adopted and changed using a process, a procedure, formulas, and factors set forth in rules adopted under Title 2, chapter 4, parts 2 through 4. After such rules have been adopted, the state fund need not follow the rulemaking provisions of Title 2, chapter 4, when changing classifications and premium rates. The contested case rights and provisions of Title 2, chapter 4, do not apply to an employer's classification or premium rate. The state fund must belong to the national council on compensation insurance and shall use the classifications of employment adopted by the national council and corresponding rates as a basis for setting its own rates.

(7) pay the amounts determined due under a policy of insurance issued by the state fund;

(8) hire personnel;



(9) declare dividends if there is an excess of assets over liabilities. However, dividends may not be paid until ~~the unfunded liability of the state fund is eliminated and~~ adequate actuarially determined reserves are ~~determined set aside. If those reserves have been set aside, money that can be declared as a dividend must be transferred to the account created by 39-71-2321 for claims for injuries resulting from accidents that occurred before July 1, 1990, and used for the purposes of that account. After all claims funded by that account have been paid, dividends may be declared and paid to insureds.~~

(10) perform all functions and exercise all powers of a domestic mutual insurer that are necessary, appropriate, or convenient for the administration of the state fund."

Section 12. Section 39-71-2321, MCA, is amended to read:

"39-71-2321. What to be deposited in state fund. (1) All premiums, penalties, recoveries by subrogation, interest earned upon money belonging to the state fund, and securities acquired by or through use of money must be deposited in the state fund. They must be separated into two accounts based upon whether they relate to claims for injuries resulting from accidents that occurred before July 1, 1990, or claims for injuries resulting from accidents that occur on or after that date.

(2) The loan proceeds given to the state fund under [section 4] must be deposited in the account for claims for injuries resulting from accidents that occurred before July 1, 1990."

Section 13. Section 39-71-2323, MCA, is amended to read:

"39-71-2323. Surplus in state fund — payment of dividends. If Subject to the provisions of 39-71-2316(9), if at the end of any fiscal year there exists in the state fund account created by 39-71-2321 for claims for injuries resulting from accidents that occur on or after July 1, 1990, an excess of assets over liabilities, including necessary reserves and a reasonable surplus, such liabilities to include necessary reserves, which and if the excess may be divided refunded safely, then the state fund may declare a dividend, in the manner as the The rules of the state fund must prescribe the manner of payment to those employers who have paid premiums into the state fund in excess of liabilities chargeable to them in the fund for that year. In determining the amount or proportion of the balance to which the employer is entitled as dividends, the state fund shall give consideration to the prior paid premiums and accident experience of each individual employer during the dividend year."

Section 14. Section 39-71-2501, MCA, is amended to read:

"39-71-2501. Definitions. As used in this part, the following definitions apply:

(1) "Department" means the department of ~~labor and industry revenue~~ provided for in ~~2-15-1701~~ 2-15-1301.

(2) "Employer" has the meaning set forth in 39-71-117.

(3) "Payroll" means the payroll of an employer for each of the calendar quarters ending March 31, June 30, September 30, and December 31, for



all employments covered under 39-71-401.

- (4) "State fund" means the state compensation mutual insurance fund.
- (5) "Tax" means the workers' compensation payroll tax provided for in 39-71-2503.
- (6) "Tax account" means the workers' compensation tax account created by 39-71-2504."

Section 15. Section 39-71-2502, MCA, is amended to read:

"39-71-2502. Findings and purpose. (1) Based on current liabilities and actuarial analysis, an unfunded liability presently exists in the state fund with regard to claims for injuries resulting from accidents that occurred before July 1, 1990, and is projected to it may increase. While legislative action is required to correct the causes of the unfunded liability, those actions will not provide sufficient funds to permit the state fund to pay its existing liabilities and obligations in a timely manner from premium and investment income available to the state fund. Therefore, it is necessary to provide a source of funding for the unfunded liability in addition to premium and investment income.

(2) The police power of the state extends to all great public needs. The state, in the exercise of its police power, has determined that it is greatly and immediately necessary to the public welfare to make workers' compensation insurance available to all employers through the state fund as the insurer of last resort. In making this insurance available, the state fund has incurred the unfunded liability described in subsection (1). The burden of this unfunded liability should not be borne solely by those employers who have insured with the state fund because the availability of insurance to all employers through the state fund has benefited all employers who have workers' compensation coverage. Therefore, all employers who have employments covered by the workers' compensation laws should share in the cost of the unfunded liability.

(3) The purpose of this part is to provide a supplemental source of financing for the unfunded liability."

Section 16. Section 39-71-2503, MCA, is amended to read:

"39-71-2503. Workers' compensation payroll tax — ~~penalty~~. (1) (a) There is imposed on each employer a workers' compensation payroll tax in an amount equal to ~~0.3%~~ 0.28% of the employer's payroll in the preceding calendar quarter for all employments covered under 39-71-401, except that if an employer is subject to 15-30-204(2), the tax is an amount equal to 0.28% of the employer's payroll in the preceding week. This payroll tax must be used to reduce the unfunded liability in the state fund incurred for claims for injuries resulting from accidents that occurred before July 1, 1990. The department must report past and projected future tax proceeds to the legislature, which shall consider the report and determine the tax rate necessary for repayment of loans with interest.

(b) ~~The tax is due and payable following the end of each calendar quarter, commencing with the quarter ending September 30, 1987.~~

(c) ~~The tax must be paid to and collected by the department. The~~

~~department shall prepare appropriate returns to be filed by each employer or insurer with the payment of the tax.~~

~~(d)(b) Each employer shall maintain the records the department requires concerning the employer's payroll. The records are subject to inspection by the department and its employees and agents during regular business hours.~~

~~(e) Taxes not paid when due bear interest at the rate of 1% a month. The employer shall also pay a penalty equal to 10% of the amount of the delinquent tax.~~

(2) All collections of the tax are appropriated to and must be deposited as received in the tax account. The tax is in addition to any other tax or fee assessed against employers subject to the tax.

(3) (a) On or before the 20th day of May, August, November, and February, each employer subject to the tax shall file a return in the form and containing the information required by the department and, except as provided in subsection (3)(b), pay the amount of tax required by this section to be paid on the employer's payroll for the preceding calendar quarter.

(b) An employer subject to 15-30-204(2) shall remit to the department a weekly payment with its weekly withholding tax payment in the amount required by subsection (1)(a).

(c) A tax payment required by subsection (1)(a) must be made with the return filed pursuant to 15-30-204. The department shall first credit a payment to the liability under 15-30-202 and credit any remainder to the workers' compensation tax account provided in 39-71-2504.

(4) An employer's officer or employee with the duty to collect, account for, and pay to the department the amounts due under this section who willfully fails to pay an amount is liable to the state for the unpaid amount and any penalty and interest relating to that amount.

(5) Returns and remittances under subsection (3) and any information obtained by the department during an audit are subject to the provisions of 15-30-303, but the department may disclose the information to the department of labor and industry under circumstances and conditions that ensure the continued confidentiality of the information.

(6) The department of labor and industry and the state fund shall, on [the effective date of this act] or as soon after that date as possible, give the department a list of all employers having coverage under any plan administered or regulated by the department of labor and industry and the state fund. After the lists have been given to the department, the department of labor and industry and the state fund shall update the lists weekly. The department of labor and industry and the state fund shall provide the department with access to their computer data bases and paper files and records for the purpose of the department's administration of the tax imposed by this section.

(3)(7) Sections 15-35-112 through 15-35-114, 15-35-121, and 15-35-122. The provisions of Title 15, chapter 30, not in conflict with the provisions of this part regarding administration, remedies, enforcement, collections,

hearings, interest, deficiency assessments, credits for overpayment, statute of limitations, penalties, and department rulemaking authority apply to the tax, to employers, and to the department."

Section 17. Section 39-71-2504, MCA, is amended to read:

"39-71-2504. Workers' compensation tax account. (1) There is a workers' compensation tax account in the state special revenue fund. The workers' compensation tax account consists of a tax account and a workers' compensation loan repayment account.

(2) All collections of the tax, interest and penalties on the tax, and revenue appropriated to the workers' compensation tax account under section 11, Chapter 9, Special Laws of June 1989, must be deposited in the workers' compensation tax account. All such money deposited in the workers' compensation tax account must be credited to the workers' compensation loan repayment account to the extent necessary to pay the principal of and interest due on workers' compensation loans issued under [section 4]. The balance in the workers' compensation loan repayment account must be credited to the tax account within the workers' compensation tax account and are is statutorily appropriated, as provided in 17-7-502, to the department state fund to be used to reduce the unfunded liability in the state fund incurred for claims for injuries resulting from accidents that occurred before July 1, 1990."

NEW SECTION. Section 18. Coordination with Occupational Disease Act of Montana. For purposes of [this act] and the administration of Title 39, chapter 72, a reference in [this act] to an injury resulting from an accident or to a claim for an injury resulting from an accident includes a disablement as defined in 39-72-102(4).

NEW SECTION. Section 19. Transfer of accounts receivable. The department of revenue is not responsible for the collection of an account receivable it takes over from the department of labor and industry on [the effective date of this section] if the account is more than 720 days past due or is an account of an employer that is no longer in business. Such accounts must be transferred to the state auditor for collection.

NEW SECTION. Section 20. Settlement of fixed benefit claims that arose prior to July 1, 1990. (1) If funds are available, the state fund may offer a negotiated claim settlement to each person who has a claim that arose before July 1, 1990, for which the state fund has accepted liability, other than liability for medical benefits, and has fixed benefits. Each settlement offer must contain a provision granting the state fund a full and unconditional release of liability, other than liability for medical benefits, in exchange for accepting the negotiated claim settlement. The claimant shall accept a negotiated claim settlement in writing before November 1, 1990, or the settlement offer is void. The negotiated claim settlement may be paid in a fixed amount without any justification by the claimant.

(2) If the negotiated claim settlement offer made pursuant to subsection (1) is not accepted, the lump-sum law in effect on the date of the injury applies.

NEW SECTION. Section 21. Request for proposals for claim settlement. The state fund may prepare a request for proposals for contracting with



private claims adjusters for settling the claims of persons whose benefits have not been determined under a claim that arose before July 1, 1990. The request for proposals may be based upon a dollar amount of unsettled claims or upon a percentage of claims for which benefits have not been determined. The state fund may not enter into a contract based upon a proposal until it has reported the results of the proposals to the 52nd legislature and has received legislative authorization to enter into a contract based upon a proposal.

Section 22. Section 33-1-102, MCA, is amended to read:

"33-1-102. Compliance required — exceptions — health service corporations — health maintenance organizations — governmental insurance programs. (1) No person shall transact a business of insurance in Montana or relative to a subject resident, located, or to be performed in Montana without complying with the applicable provisions of this code.

(2) No provision of this code shall apply with respect to:

(a) domestic farm mutual insurers as identified in chapter 4, except as stated in chapter 4;

(b) domestic benevolent associations as identified in chapter 6, except as stated in chapter 6; and

(c) fraternal benefit societies, except as stated in chapter 7.

(3) This code applies to health service corporations as prescribed in 33-30-102. The existence of such corporations is governed by Title 35, chapter 2, and related sections of the Montana Code Annotated.

(4) This code does not apply to health maintenance organizations to the extent that the existence and operations of such organizations are authorized by chapter 31.

(5) This code does not apply to workers' compensation insurance programs provided for in Title 39, chapter 71, ~~part parts 21 and 23~~, and related sections.

(6) This code does not apply to the state employee group insurance program established in Title 2, chapter 18, part 8.

(7) This code does not apply to insurance funded through the state self-insurance reserve fund provided for in 2-9-202.

(8) (a) This code does not apply to any arrangement, plan, or interlocal agreement between political subdivisions of this state whereby the political subdivisions undertake to separately or jointly indemnify one another by way of a pooling, joint retention, deductible, or self-insurance plan.

(b) This code does not apply to any arrangement, plan, or interlocal agreement between political subdivisions of this state or any arrangement, plan, or program of a single political subdivision of this state whereby the political subdivision provides to its officers, elected officials, or employees disability insurance or life insurance through a self-funded program."



Section 23. Section 10, Chapter 664, Laws of 1987, is amended to read:

"Section 10. Effective date — ~~termination~~. This act is effective on passage and approval ~~and terminates June 30, 1991.~~"

NEW SECTION. Section 24. Time for filing tax returns. For the period from July 1, 1990, through June 30, 1991, each employer subject to the tax provided for in 39-71-2503 shall file, on or before the 20th day of May, August, November, and February, a return in the form and containing the information required by the department of labor and industry.

NEW SECTION. Section 25. Appropriation. There is appropriated \$124,131 from the general fund to the department of revenue for the fiscal year beginning July 1, 1990, to be used to convert state fund and department of labor and industry data relating to the collection of the employer's payroll tax and to prepare a system for the collection of the tax by the department of revenue.

NEW SECTION. Section 26. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. Section 27. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 28. Codification instruction. [Sections 1, 2, 4, and 5] are intended to be codified as an integral part of Title 39, chapter 71, part 23, and the provisions of Title 39, chapter 71, part 23, apply to [sections 1, 2, 4, and 5].

NEW SECTION. Section 29. Effective dates — applicability. (1) [Sections 1 through 13, 15, 17, 18, 20 through 28, and this section] are effective July 1, 1990.

(2) The change in the tax rate in 39-71-2503(1)(a) and the amendment inserted at the end of 39-71-2503(1)(a) by [section 16] are effective October 1, 1990, and apply to wages payable on or after July 1, 1990.

(3) [Sections 14 and 19] and all other amendments to 39-71-2503 contained in [section 16] are effective July 1, 1991."

And that this conference committee report be adopted.

For the Senate:  
Sen. Aklestad, Chairman  
Sen. Thayer  
Sen. Norman

For the House:  
Rep. Harper, Chairman  
Rep. Driscoll  
Rep. Glaser

**MESSAGES FROM THE OTHER HOUSE**

House, on 5/25/90, adopted the free conference committee report no. 1 on the following bills:

**HB 1**  
**HB 2**

**SECOND READING OF BILLS  
(COMMITTEE OF THE WHOLE)**

Senator Gage moved that the Senate resolve itself into a committee of the whole for the consideration of business on second reading. Motion carried. Senator Lynch in the chair.

Mr. President: We, your Committee of the Whole having had under consideration business on second reading, recommend as follows:

**HB 2** free conference committee report - Senator Thayer moved that the free conference committee report on HB 2 be adopted. Motion carried as follows:

Ayes: Abrams, Aklestad, Anderson, Beck, Bengtson, Bishop, Blaylock, Brown, Crippen, Devlin, Eck, Farrell, Gage, Hager, Hammond, Harding, Harp, Himsl, Hofman, Jacobson, Jenkins, Jergeson, Keating, Lynch, Manning, Mazurek, McLane, Meyer, Nathe, Noble, Norman, Pinsoneault, Pipinich, Rasmussen, Regan, Severson, Stimatz, Story, Svrcek, Thayer, Tveit, Van Valkenburg, Vaughn, Walker, Weeding, Williams, Yellowtail, Mr. President.  
Total 48

Noes: Boylan.  
Total 1

Excused: Halligan.  
Total 1

Absent or not voting: None.  
Total 0

Senator Gage moved the committee rise and report. Motion carried. Committee arose. Senate resumed, Mr. President in the chair. Chairman Lynch moved the adoption of the committee report. Report adopted.

**THIRD READING OF BILLS**

The following bill having been read three several times, title and history agreed to, was disposed of in the following manner:

**HB 2** free conference committee report adopted by the following vote:

Ayes: Abrams, Aklestad, Anderson, Beck, Bengtson, Bishop, Blaylock, Brown, Crippen, Devlin, Eck, Farrell, Gage, Hager, Halligan, Hammond, Harding, Harp, Himsl, Hofman, Jacobson, Jenkins, Jergeson, Keating, Lynch, Manning, Mazurek, McLane, Meyer, Nathe, Noble, Norman, Pinsoneault, Pipinich, Rasmussen, Regan, Severson, Stimatz, Story, Svrcek, Thayer, Tveit,

Van Valkenburg, Vaughn, Walker, Weeding, Williams, Yellowtail, Mr.  
President.  
Total 49

Noes: Boylan.  
Total 1

Paired: Halligan, Aye; Boylan, No.

Excused: Halligan.  
Total 1

Absent or not voting: None.  
Total 0

## MESSAGES FROM THE GOVERNOR

May 25, 1990

The Honorable Jack Galt  
President of the Senate  
Montana Senate  
Capitol Station

Helena, MT 59620

Dear Jack:

Please allow me this opportunity to congratulate the members of the Senate on their diligence this week and their dedication to accomplishing the mission as set out in my call for this Special Session.

Your deliberations were forthright and sincere, and your attention was not diverted from the serious matters at hand. The Special Session has been conducted in a bi-partisan manner.

I offer all the members my sincere wishes for a safe journey home and a pleasant and enjoyable summer.

Sincerely,

STAN STEPHENS  
Governor

## SPECIAL ORDERS OF THE DAY

President pro tempore Himsl approached the chair, and President Galt relinquished the microphone. President pro tempore Himsl expressed gratitude to President Galt on behalf of the Senate for the 15 years of dedicated service and leadership that he had provided. As a token of their thanks and appreciation, an engraved gavel was presented to the retiring president. The presentation was followed by a standing ovation.

Senator Gage moved that the president be authorized to appoint a committee of three to notify the Governor that the Senate of the 51st Legislature Second Special Session was ready to adjourn sine die. Motion carried. The president appointed Senators Hager, Severson, and Svrcek and dismissed them from the chamber.

Senator Gage moved that the president be authorized to appoint a committee of three to notify the chief justice and the Supreme Court that the Senate of the 51st Legislature Second Special Session was ready to adjourn sine die. Motion carried. The president appointed Senators Rasmussen, Hofman, and Williams and dismissed them from the chamber.

Senator Gage moved that the president be authorized to appoint a committee of three to notify the House of Representatives that the Senate of the 51st Legislature Second Special Session was ready to adjourn sine die. Motion carried. The president appointed Senators Beck, Jenkins, and Yellowtail and dismissed them from the chamber.

Senator Gage moved the Senate stand at ease subject to the call of the chair. Motion carried. Senate stood at ease at 8:40 p.m.

Senate resumed at 8:45 p.m., Mr. President in the chair.

### REPORTS OF SELECT COMMITTEES

Sergeant at Arms Moritz announced the return of the select committees and escorted them to the well of the Senate.

Senator Beck and the committee to notify the chief justice and the Supreme Court reported that Chief Justice Turnage wished them best of luck. President Galt thanked the committee and discharged them.

Senator Rasmussen and the committee to notify the House of Representatives reported that they had discharged their duty and the House sent good wishes. President Galt thanked the committee and discharged them.

Senator Hager and the committee to notify the Governor reported that the Governor thanked them and wished them a safe journey home. President Galt thanked the committee and discharged them.

Senator Gage moved that the Senate publish the journal of the proceedings of the 51st Legislature Second Special Session up through this legislative day and that the president be authorized to approve the payment for publishing costs. Motion carried.

Senator Gage moved that joint rule 40-160 be interpreted so that any bill passed by both houses of the legislature by the last legislative day may be enrolled, clerically corrected by the presiding officers, signed by the presiding officers and delivered to the Governor not later than five business days after its return from enrolling. All journal entries authorized under this rule as announcements and/or communications will be entered in the journal for this legislative day. Motion carried as follows:

Ayes: Abrams, Aklestad, Anderson, Beck, Bishop, Blaylock, Boylan, Brown, Crippen, Devlin, Eck, Farrell, Gage, Hager, Hammond, Harding, Harp, Himsl, Hofman, Jacobson, Jenkins, Jergeson, Keating, Lynch, Manning, Mazurek, McLane, Meyer, Nathe, Noble, Norman, Pinsoneault, Pipinich, Rasmussen,



Regan, Severson, Stimatz, Story, Svrcek, Thayer, Tveit, Van Valkenburg,  
Vaughn, Walker, Weeding, Williams, Yellowtail, Mr. President.  
Total 48

Noes: None.  
Total 0

Excused: Halligan.  
Total 1

Absent or not voting: Bengtson.  
Total 1

Senator Gage moved that the Senate adjourn sine die. Motion carried.

Senate adjourned at 8:55 p.m.

JACK E. GALT  
President of the Senate

JOHN W. LARSON  
Secretary of the Senate

Senators reported that the president had  
of them to notify the chief justice and the S.  
the Vice Legislative Council Special  
the chief justice. The president  
Senators and discharged them from the chamber.

Senator Gage moved that the president  
of them to notify the House of Representatives  
and the Vice Legislative Council Special  
the president appointed Senators  
discharged them from the chamber.

Senator Gage moved the Senate stand at ease until  
the Senate adjourned. Senate stood at ease at 4:40 p.m.

Senators remained at 9:45 p.m., Mr. President in the chamber.

## REPORTS OF SELECT COMMITTEES

Senator Arce Mena announced the report of the select committee and  
discharged them from the chamber.

Senator Arce Mena and the committee to notify the chief justice and the House of  
Representatives reported that Chief Justice Tammage was there with a check. President  
Gall thanked the committee and discharged them.

Senator Arce Mena and the committee to notify the House of Repre-  
sentatives reported that they had discharged their duty and the House com-  
mittee reported that they had discharged the committee and discharged them.

Senator Arce Mena and the committee to notify the Governor reported that the  
Governor thanked them and wished them a safe journey home. President  
Gall thanked the committee and discharged them.

Senator Arce Mena moved that the Senate publish the journal of the proceedings  
of the Vice Legislative Council Special Session up through the legislative day  
and that the president be authorized to approve the payment for publication.  
Motion carried.

Senator Arce Mena moved that joint rule 40-100 be interpreted as the  
provision of the House of the Legislature by the last legislative  
session.

Senator Arce Mena and the committee to notify the president, signed  
the report of the committee. The committee reported that they had  
discharged their duty and the House committee reported that they had  
discharged the committee and discharged them.

835009

**ADDENDUM  
TO THE  
SENATE JOURNAL**

June 19, 1990

The Honorable Jack E. Galt  
President  
Montana State Senate  
Helena, Montana 59620

Dear President Galt:

Please be informed that I have signed Senate Bill 1 on June 19, 1990.

Sincerely,

STAN STEPHENS  
Governor





MAY 1990

SPECIAL SESSION

TITLE INDEX

HOUSE BILLS

AS INTRODUCED

**Boldface figures refer to roll calls**

HB 1 INTRODUCED BY THOFT: A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE USE OF INMATE LABOR FOR CONSTRUCTION PROJECTS AUTHORIZED BY THE LEGISLATURE; SPECIFICALLY AUTHORIZING THE USE OF INMATE LABOR FOR CERTAIN PROJECTS; AMENDING SECTION 53-1-301, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, A RETROACTIVE APPLICABILITY DATE, AND A TERMINATION DATE."

HOUSE PAGE NO. 8, 12, 20, **22, 23**, 31, 35, 36, 63.

SENATE PAGE NO. 89, **90, 91**, 115, 128.

HB 2 INTRODUCED BY GLASER, HARPER: A BILL FOR AN ACT ENTITLED: "AN ACT SEPARATING THE LIABILITY OF THE STATE WORKERS' COMPENSATION INSURANCE PROGRAM AND FUND ON THE BASIS OF WHETHER THE LIABILITY ARISES FROM CLAIMS FOR INJURIES RESULTING FROM ACCIDENTS THAT OCCURRED BEFORE JULY 1, 1990, OR ACCIDENTS THAT OCCUR ON OR AFTER THAT DATE; ESTABLISHING SEPARATE FUNDING AND ACCOUNTS FOR CLAIMS REPRESENTED BY THE UNFUNDED LIABILITY AND CLAIMS REPRESENTED BY NEW BUSINESS; AUTHORIZING THE BOARD OF INVESTMENTS TO MAKE LOANS AND TO ISSUE BONDS PAYABLE BY THE EMPLOYER'S PAYROLL TAX TO PAY OFF THE UNFUNDED LIABILITY; CREATING A STATE DEBT AND PROVIDING FOR A TWO-THIRDS VOTE THEREON BY THE LEGISLATURE; PROVIDING FOR INCREASED LEGISLATIVE OVERSIGHT OF THE STATE FUND; CLARIFYING THE STATE FUND'S DUTIES; PROVIDING THAT THE STATE FUND MAY NOT ISSUE BONDS; ENSURING COMPLIANCE WITH THE MANDATE THAT THE STATE FUND SET PREMIUMS FOR NEW BUSINESS AT A LEVEL SUFFICIENT TO ENSURE SOLVENCY; EXTENDING THE WORKERS' COMPENSATION PAYROLL TAX TO JUNE 30, 2020; AMENDING SECTIONS 39-71-2311, 39-71-2314 THROUGH 39-71-2316, 39-71-2321, 39-71-2323, AND 39-71-2501 THROUGH 39-71-2504, MCA; AMENDING SECTION 10, CHAPTER 664, LAWS OF 1987; AND PROVIDING EFFECTIVE DATES, AN AP-

PLICABILITY DATE, AND A TERMINATION DATE."

HOUSE PAGE NO. 8, 13, **21**, **23**, 32, **33**, 35, 47, **59**, **60**, 61, 63.

SENATE PAGE NO. 89, 96, **100**, 101, 115, **128**.

- HB 3 INTRODUCED BY O'KEEFE: A BILL FOR AN ACT ENTITLED: "AN ACT REVISING ALL LOCAL GOVERNMENT SEVERANCE TAX RATES TO INCLUDE AN EQUIVALENT 40-MILL TAX RATE ON OIL AND NATURAL GAS BASED ON THE 1989 PRODUCTION YEAR AND FISCAL YEAR 1990 NET PROCEEDS TAX COLLECTIONS; ESTABLISHING A BASE YEAR FOR THE DISTRIBUTION OF LOCAL GOVERNMENT SEVERANCE TAXES; DISTRIBUTING LOCAL GOVERNMENT SEVERANCE TAXES TO ELIGIBLE TAXING UNITS; PROVIDING FOR A PERCENTAGE DISTRIBUTION MECHANISM FOR LOCAL GOVERNMENT SEVERANCE TAXES UNDER CERTAIN CONDITIONS; CLARIFYING THE APPLICATION OF THE LOCAL GOVERNMENT SEVERANCE TAX TO INCLUDE ALL NATURAL GAS STRIPPER WELLS; CLARIFYING THE LOCAL GOVERNMENT SEVERANCE TAX ON OIL STRIPPER WELLS; CLARIFYING THAT LOCAL PRODUCTION TAXES ON OIL, NATURAL GAS, AND COAL ARE INCLUDED IN THE GUARANTEED TAX BASE CALCULATION; CLARIFYING THE DEFINITION OF THE GUARANTEED TAX BASE; AMENDING SECTIONS 15-36-101, 15-36-112, 15-36-121, AND 20-9-366, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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- HB 4 INTRODUCED BY O'KEEFE: A BILL FOR AN ACT ENTITLED: "AN ACT REVISING ALL LOCAL GOVERNMENT SEVERANCE TAX RATES ON OIL AND NATURAL GAS BASED ON THE 1989 PRODUCTION YEAR TO BE REVENUE NEUTRAL TO FISCAL YEAR 1990 NET PROCEEDS TAX COLLECTIONS; ESTABLISHING A BASE YEAR FOR THE DISTRIBUTION OF LOCAL GOVERNMENT SEVERANCE TAXES; DISTRIBUTING LOCAL GOVERNMENT SEVERANCE TAXES TO ELIGIBLE TAXING UNITS; PROVIDING FOR A PERCENTAGE DISTRIBUTION MECHANISM FOR LOCAL GOVERNMENT SEVERANCE TAXES UNDER CERTAIN CONDITIONS; CLARIFYING THE APPLICATION OF THE LOCAL GOVERNMENT SEVERANCE TAX TO INCLUDE ALL NATURAL GAS STRIPPER WELLS; CLARIFYING THE LOCAL GOVERNMENT SEVERANCE TAX ON OIL STRIPPER WELLS; CLARIFYING THAT LOCAL PRODUCTION TAXES ON OIL, NATURAL GAS, AND COAL ARE INCLUDED IN THE GUARANTEED TAX BASE CALCULATION; CLARIFYING THE DEFINITION OF THE GUARANTEED TAX BASE; AMENDING SECTIONS 15-36-101, 15-36-112, 15-36-121, AND 20-9-366, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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- HB 5 INTRODUCED BY EUDAILY: A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LOCAL GOVERNMENT SEVERANCE TAXES; ESTABLISHING A BASE YEAR FOR THE

DISTRIBUTION OF LOCAL GOVERNMENT SEVERANCE TAXES; DISTRIBUTING LOCAL GOVERNMENT SEVERANCE TAXES TO ELIGIBLE TAXING UNITS; PROVIDING FOR A PERCENTAGE DISTRIBUTION MECHANISM FOR LOCAL GOVERNMENT SEVERANCE TAXES UNDER CERTAIN CONDITIONS; CLARIFYING THE APPLICATION OF THE LOCAL GOVERNMENT SEVERANCE TAX TO NATURAL GAS STRIPPER WELLS; CLARIFYING THAT LOCAL PRODUCTION TAXES ON OIL, NATURAL GAS, AND COAL ARE INCLUDED IN THE GUARANTEED TAX BASE CALCULATION; CLARIFYING THE DEFINITION OF THE GUARANTEED TAX BASE; AMENDING SECTIONS 15-36-112, 15-36-121, AND 20-9-366, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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HB 6 INTRODUCED BY BARDANOUVE: A BILL FOR AN ACT ENTITLED: "AN ACT APPROPRIATING MONEY FOR THE OPERATION OF THE SECOND SPECIAL SESSION OF THE FIFTY-FIRST LEGISLATURE, CONVENING MAY 21, 1990, AND FOR OTHER PURPOSES; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

HOUSE PAGE NO. 9, 11, 12, 25, 26, 28, 30, 36, 44, 63.

SENATE PAGE NO. 99, 103, 104, 115.

HB 7 INTRODUCED BY O'KEEFE, ET AL.: A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING UNIFORM TAX RATES FOR THE PURPOSES OF NET PROCEEDS AND LOCAL GOVERNMENT SEVERANCE TAXATION OF OIL AND OF NATURAL GAS BASED ON THE 1989 PRODUCTION YEAR, WHICH RATES ARE TO BE REVENUE NEUTRAL TO FISCAL YEAR 1990 NET PROCEEDS TAX COLLECTIONS; ESTABLISHING A BASE YEAR FOR THE DISTRIBUTION OF LOCAL GOVERNMENT SEVERANCE TAXES; DISTRIBUTING LOCAL GOVERNMENT SEVERANCE TAXES TO ELIGIBLE TAXING UNITS; PROVIDING FOR A PERCENTAGE DISTRIBUTION MECHANISM FOR LOCAL GOVERNMENT SEVERANCE TAXES UNDER CERTAIN CONDITIONS; CLARIFYING THE APPLICATION OF THE LOCAL GOVERNMENT SEVERANCE TAX TO INCLUDE ALL NATURAL GAS STRIPPER WELLS; CLARIFYING THE LOCAL GOVERNMENT SEVERANCE TAX ON OIL STRIPPER WELLS; CLARIFYING THAT LOCAL PRODUCTION TAXES ON OIL, NATURAL GAS, AND COAL ARE INCLUDED IN THE GUARANTEED TAX BASE CALCULATION; CLARIFYING THE DEFINITION OF THE GUARANTEED TAX BASE; AMENDING SECTIONS 15-23-607, 15-36-101, 15-36-112, 15-36-121, AND 20-9-366, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND RETROACTIVE APPLICABILITY DATES."

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**SENATE BILLS**

**SB 1 INTRODUCED BY GAGE: A BILL FOR AN ACT ENTITLED: "AN ACT REVISING OIL AND NATURAL GAS LOCAL GOVERNMENT SEVERANCE TAX RATES; IMPOSING A REVENUE NEUTRAL LOCAL GOVERNMENT SEVERANCE TAX RATE ON NONWORKING INTEREST OWNERS OF OIL AND NATURAL GAS PRODUCTION; ESTABLISHING A BASE YEAR FOR THE DISTRIBUTION OF LOCAL GOVERNMENT SEVERANCE TAXES; DISTRIBUTING LOCAL GOVERNMENT SEVERANCE TAXES TO ELIGIBLE TAXING UNITS; PROVIDING FOR A PERCENTAGE DISTRIBUTION MECHANISM FOR LOCAL GOVERNMENT SEVERANCE TAXES UNDER CERTAIN CONDITIONS; CLARIFYING THE APPLICATION OF THE LOCAL GOVERNMENT SEVERANCE TAX TO NATURAL GAS STRIPPER WELLS; CLARIFYING THE LOCAL GOVERNMENT SEVERANCE TAX ON OIL STRIPPER WELLS; CLARIFYING THAT LOCAL PRODUCTION TAXES ON OIL, NATURAL GAS, AND COAL ARE INCLUDED IN THE GUARANTEED TAX BASE CALCULATION; CLARIFYING THE DEFINITION OF THE GUARANTEED TAX BASE; AMENDING SECTIONS 15-36-101, 15-36-112, 15-36-121, AND 20-9-366, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."**

**SENATE PAGE NO. 79, 81, 83, 87, 90, 95, 96, 105, 114, 115, 133.**

**HOUSE PAGE NO. 19, 20, 26, 28, 29, 30, 31, 36, 45, 46.**

**SB 2 INTRODUCED BY NOBLE: A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE USE OF INMATE LABOR FOR CONSTRUCTION PROJECTS AUTHORIZED BY THE LEGISLATURE; SPECIFICALLY AUTHORIZING THE USE OF INMATE LABOR FOR CERTAIN PROJECTS; AMENDING SECTION 53-1-301, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, A RETROACTIVE APPLICABILITY DATE, AND A TERMINATION DATE."**

**SENATE PAGE NO. 79**

**SB 3 INTRODUCED BY BOYLAN: A BILL FOR AN ACT ENTITLED: "AN ACT SEPARATING THE LIABILITY OF THE STATE WORKERS' COMPENSATION INSURANCE PLAN AND FUND ON THE BASIS OF WHETHER THE LIABILITY ARISES FROM CLAIMS FOR INJURIES RESULTING FROM ACCIDENTS THAT OCCURRED BEFORE JULY 1, 1990, OR ACCIDENTS THAT OCCUR ON OR AFTER THAT DATE; REQUIRING THE SALE OF THE STATE COMPENSATION MUTUAL INSURANCE PLAN AND FUND TO THE HIGHEST RESPONSIBLE BIDDER; PROVIDING FOR A SALE PROCEDURE; PROVIDING FOR DISPOSITION OF THE PROCEEDS OF THE SALE; PROVIDING THAT IF A SALE IS NOT EFFECTED, THE STATE COMPENSATION MUTUAL INSURANCE PLAN AND FUND ARE ABOLISHED; PROVIDING FOR**



AN ASSIGNED APPORTIONMENT TO INSURERS OF INSURANCE COVERAGE FOR HIGH-RISK EMPLOYERS; AMENDING SECTIONS 2-18-103, 19-3-1002, 19-3-1202, 33-2-119, 33-16-1005, 33-16-1011, 39-71-102, 39-71-103, 39-71-116, 39-71-201, 39-71-206, 39-71-308, 39-71-401, 39-71-403, 39-71-434, 39-71-502, 39-71-504, 39-71-505, 39-71-515, 39-71-704, 39-71-2201, 39-72-310, AND 45-7-501, MCA; REPEALING SECTIONS 2-15-1019, 39-71-431, 39-71-2311 THROUGH 39-71-2323, 39-71-2325, 39-71-2327, AND 39-71-2336 THROUGH 39-71-2340, MCA; AND PROVIDING EFFECTIVE DATES AND AN APPLICABILITY PROVISION."

SENATE PAGE NO. 82, 90, 103.

SB 4 INTRODUCED BY GAGE: A BILL FOR AN ACT ENTITLED: "AN ACT REVISING OIL AND NATURAL GAS LOCAL GOVERNMENT SEVERANCE TAX RATES; IMPOSING A REVENUE NEUTRAL LOCAL GOVERNMENT SEVERANCE TAX RATE ON NONWORKING INTEREST OWNERS OF OIL AND NATURAL GAS PRODUCTION; AMENDING SECTION 15-36-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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SB 5 INTRODUCED BY THAYER, ET AL.: A BILL FOR AN ACT ENTITLED: "AN ACT SEPARATING THE LIABILITY OF THE STATE WORKERS' COMPENSATION INSURANCE PROGRAM AND FUND ON THE BASIS OF WHETHER THE LIABILITY ORIGINATES FROM CLAIMS THAT AROSE BEFORE JULY 1, 1990, OR CLAIMS THAT ARISE ON OR AFTER THAT DATE; REQUIRING THAT FOR THE PORTION OF THE PREMIUMS ATTRIBUTABLE TO CLAIMS THAT AROSE BEFORE JULY 1, 1990, THE STATE FUND SHALL CHARGE AMOUNTS SUFFICIENT TO PROVIDE REVENUE TO SATISFY THOSE CLAIMS AS THEY BECOME DUE AND PAYABLE; AMENDING SECTION 39-71-2316, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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SB 6 INTRODUCED BY SVRCEK: A BILL FOR AN ACT ENTITLED: "AN ACT TO REDUCE THE PROJECTED JULY 1, 1990, PREMIUM RATE INCREASE BY INCREASING THE WORKERS' COMPENSATION EMPLOYER'S PAYROLL TAX FOR THE PERIOD FROM JULY 1, 1990, THROUGH JUNE 30, 1991; AMENDING SECTION 39-71-2503, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

SENATE PAGE NO. 99

SB 7 INTRODUCED BY SVRCEK: A BILL FOR AN ACT ENTITLED: "AN ACT TO REDUCE THE PROJECTED JULY 1, 1990, PREMIUM RATE INCREASE BY INCREASING THE WORKERS' COMPENSATION EMPLOYER'S PAYROLL TAX FOR THE PERIOD FROM JULY 1, 1990, THROUGH JUNE 30, 1991, AND BY PROVIDING ANOTHER SUPPLEMENTAL FUNDING SOURCE FOR THE STATE COMPENSATION MUTUAL INSURANCE FUND

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THROUGH AN EMPLOYEE'S WAGE TAX; TO PROVIDE FOR COLLECTION OF THE WAGE TAX; AMENDING SECTIONS 39-71-2501 THROUGH 39-71-2504, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, AN APPLICABILITY DATE, AND A TERMINATION DATE."

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## SENATE RESOLUTIONS

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SENATE PAGE NO. 89, **91**, 115.

SR 2 INTRODUCED BY THE SENATE JUDICIARY COMMITTEE: A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE NOMINATION AND APPOINTMENT MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MAY 18, 1990, TO THE SENATE PURSUANT TO SECTION 5-5-302, MCA.

SENATE PAGE NO. 89, **92**, 115.

SR 3 INTRODUCED BY THE SENATE JUDICIARY COMMITTEE: A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE NOMINATION AND APPOINTMENT MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MAY 18, 1990, TO THE SENATE PURSUANT TO SECTION 5-5-302, MCA.

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SENATE PAGE NO. 89, **93**, 115.

SR 5 INTRODUCED BY THE SENATE JUDICIARY COMMITTEE: A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE NOMINATION AND APPOINTMENT MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MAY 18, 1990, TO THE SENATE.

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# SUBJECT INDEX

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## C

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